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>>> <judgevann@lenoircitycourt.com> 5/7/2008 9:22 PM >>>

Aaron,

Hope you are doing well.?

I have a question about the Municipal Court Reform Act (MCRA).?

Section 16-18-310(a) provides that the municipality shall have a court clerk either by election, appointment or other designation notwithstanding any charter, etc. provision.

Section 16-18-310(b) provides that the clerk shall be the keeper of the records and collector of the fines and costs.

I have been unable to obtain the legislative history of the MCRA.?

The Lenoir City Charter provides as follows, and nothing further, with regard to the Court:??? Section 7. Shall serve as city court clerk. The Recorder/Treasurer shall be the Clerk of the City Court.

All of the duties and responsibilities for collection, accounting, reporting, etc. are assigned to the city judge.

You may recall that a couple of years ago I discovered several hundred thousand dollars of uncollected fines and costs.? After I confronted the Recorder, she resigned, and the city council appointed an interim Recorder.?

Pursuant to Section 16-18-310, the city council would like to appoint a city court clerk and assign the duties of the court to the clerk.

I interpret the term "notwithstanding" as authority, regardless of the charter provisions, for the council: (i) to create the office of city court clerk and appoint someone other than the Recorder to that position; and (ii) to assign the collection, accounting, reporting, etc. duties to the clerk.? The city attorney?concurs.

What is your opinion?

Thanks,

Terry Vann

Gail Vann

From: Gail Vann [gmcnabb@lcub1.com]
Sent: Wednesday, May 06, 2009 4:05 PM
To: gmcnabb@lcub1.com
Subject: FW: Municipal Court Reform Act

-----Original Message-----

From: Terry G. Vann [mailto:judgevann@lenoircitycourt.com]
Sent: Wednesday, May 06, 2009 3:45 PM
To: gmcnabb@lcub1.com; LittleAtty@lcub1.com
Subject: Fwd: Municipal Court Reform Act

This message has been scanned by the InterScan for CSC SSM and found to be free of known security risks.

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-----Original Message-----

From: Aaron Conklin <Aaron.Conklin@tncourts.gov>
To: judgevann@lenoircitycourt.com
Sent: Thu, 8 May 2008 8:50 am
Subject: Re: Municipal Court Reform Act

Good to hear from you Judge Vann. Your interpretation is exactly correct. The intent is that some person be designated as the city court clerk, regardless of what other responsibilities that person may have in the charter, etc. I have found that the city court clerk comes from many different departments throughout the other cities. Some use the records dept. at the police department, others use the recorders office, and others establish a separate position. The main concept is that someone be designated as the city court clerk (especially because of the realities and practicalities of the every day functions of the local government), and the ability to do something other than the charter lies in the "notwithstanding" language.

Please feel free to contact me with any other questions.

Aaron J. Conklin
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