



COMMONWEALTH of VIRGINIA

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March 19, 2009

Mr. John C. Blair, II, Esq.
Dinwiddie County Attorney
P.O. Drawer 70
Dinwiddie, Virginia 23841

Dear Mr. Blair:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether a county board of supervisors may prevent an assessor for a general reassessment from complying with § 58.1-3300, which governs reassessment records, on the sole basis that the board of supervisors disagrees with the results of such general reassessment.

Response

It is my opinion that a county board of supervisors may not prevent a statutorily appointed professional assessor for a general reassessment from complying with § 58.1-3300 on the sole basis that the board disagrees with the results of such reassessment.

Background

You state that the Dinwiddie County (the "County") performed a general reassessment of real estate during the 2004 calendar year, which became effective January 1, 2005. Further, you advise that the County issued a request for proposal ("RFP") for a general reassessment of all County real estate to be conducted during fall of 2007 and calendar year 2008, with the effective date to be January 1, 2009 (the "2008 Reassessment"). You relate that the RFP contained the following language:

In accordance with § 58.1-3252 of the Code of Virginia, 1950, as amended, the County requires that all real estate undergo an independent, general and uniform reassessment every four years. Such reassessment shall include all taxable and tax-exempt properties with the improvements and buildings thereon, if any, and shall be based upon Fair Market Value. All manufactured housing/mobile homes must be appraised in the same manner as real estate. The reassessment of all properties shall begin in the Fall of 2007 and be completed by the end of December, 2008 to become effective January 1, 2009.

You note the County reviewed the RFP submissions, interviewed the candidates, and by resolution dated October 1, 2007, the Dinwiddie County Board of Supervisors awarded the contract to

perform the 2008 Reassessment. The contract, by reference, incorporated the provisions of the RFP. By resolution dated August 19, 2008, the Board appointed the project supervisor of the firm that received the contract as the County's assessor for the 2008 Reassessment. On December 23, 2008, that assessor certified the land book and filed it with the clerk of the circuit court. You relate that the Board does not agree with the result, generally believing that the assessments are too high. Therefore, you ask whether the Board may prevent the assessor from complying with § 58.1-3300.

Applicable Law and Discussion

The power of a local governing body, unlike that of the General Assembly, "must be exercised pursuant to an express grant"¹ because the powers of a county "are limited to those conferred expressly or by necessary implication."² "If the power cannot be found, the inquiry is at an end."³ The Dillon Rule requires a narrow interpretation of all powers conferred on local governments since they are delegated powers.⁴ Therefore, any doubt as to the existence of power must be resolved against the locality.⁵

Chapter 32 of Title 58.1, §§ 58.1-3200 through 58.1-3389, comprehensively governs the assessment and reassessment of real estate for local taxation. Under Chapter 32, a local governing body has the option to provide for the assessment and reassessment of real estate by appointing a real estate assessor or a board of assessors.⁶ The assessor ascertains and assesses the fair market value of all assessable lands and lots.⁷ The assessor is required to complete the general reassessment no later than December 31 of the year of the reassessment.⁸ Section 58.1-3300 requires that:

As soon as the persons, or officers, designated under the provisions of Article 6 (§ 58.1-3270 et seq.) herein have completed the reassessment, they shall make two copies of such record, in the form in which the land books are made out, and shall certify on oath that no assessable real estate is omitted and that there is no error on the face of such record. Such persons, or officers, designated as aforesaid shall then file the original of

¹ Nat'l Realty Corp. v. Va. Beach, 209 Va. 172, 175, 163 S.E.2d 154, 156 (1968).

² Bd. of Supvrs. v. Horne, 216 Va. 113, 117, 215 S.E.2d 453, 455 (1975) (noting corollary to Dillon Rule).

³ Commonwealth v. County Bd., 217 Va. 558, 575, 232 S.E.2d 30, 41 (1977).

⁴ See Bd. of Supvrs. v. Countryside Invest. Co., 258 Va. 497, 504-05, 522 S.E.2d 610, 613-14 (1999) (holding that county board of supervisors does not have unfettered authority to decide what matters to include in subdivision ordinance; must include requirements mandated by Land Subdivision and Development Act and may include optional provisions contained in act); Op. Va. Att'y Gen.: 2002 at 77, 78; 1974-1975 at 403, 405.

⁵ 2A EUGENE MCQUILLEN, THE LAW OF MUNICIPAL CORPORATIONS § 10.19, at 369 (3d ed. 1996); see also Op. Va. Att'y Gen.: 2002 at 83, 84; 2000 at 75, 76.

⁶ See VA. CODE ANN. § 58.1-3253(A) (Supp. 2008) (discussing role of full-time real estate appraiser or assessor relating to biennial reassessment); § 58.1-3271 (Supp. 2008) (authorizing appointment of board of real estate assessors or real estate appraiser to conduct annual or biennial assessment); 1984-1985 Op. Va. Att'y Gen. 304, 304 (interpreting § 58-778.1, predecessor to § 58.1-3253, and concluding that governing body may establish real estate assessment department to conduct biennial assessment); *id.* at 305, 306 n.1, (interpreting § 58-778.1 and concluding that governing body may employ full-time appraiser or assessor to conduct biennial assessment).

⁷ See generally §§ 58.1-3280 to 58.1-3295 (2004 & Supp. 2008).

⁸ See § 58.1-3257(A) (Supp. 2008).

Mr. John C. Blair, II, Esq.

March 19, 2009

Page 3

such reassessment in the office of the circuit court clerk of the city or county, who shall preserve the same in his office; and he or they shall deliver one copy of such reassessment to the commissioner of the revenue of the city or county and one copy to the local board of equalization of such city or county. For cities having an additional court for the recordation of deeds, one extra copy of such reassessment, embracing real estate the conveyance of which is required to be recorded in the clerk's office of such additional court, shall be made and filed in such circuit court clerk's office.

Such persons or officers shall at the same time forward to the Department of Taxation a copy of the recapitulation sheets of such reassessment.

In lieu of complying with the foregoing provisions of this section, the person or persons appointed by the governing body to perform the annual or biennial reassessment of real estate set forth in §§ 58.1-3251 and 58.1-3253 shall sign the land book attesting to the valuations contained therein resulting from such assessment.

The General Assembly has not authorized a county to appoint an assessor to begin to undertake the general reassessment process and then prevent such assessor from complying with the requirements of § 58.1-3300 because the county's board of supervisors disagrees with the reassessment results. Prior opinions of the Attorney General similarly conclude that a board of supervisors has no power to change the assessment of real property as ascertained by the assessor during a general reassessment and has no authority to raise or lower the ratio of assessment of real property.⁹

The application of the Dillon Rule in the Commonwealth requires a narrow interpretation of all powers conferred on local governments because any such powers are delegated powers.¹⁰ Therefore, I must conclude that a county board of supervisors is without statutory authority to prevent the completion of an initiated general reassessment based on such board's disagreement with the assessment results.

Conclusion

Accordingly, it is my opinion that a county board of supervisors may not prevent a statutorily appointed professional assessor for a general reassessment from complying with § 58.1-3300 on the sole basis that the board disagrees with the results of such reassessment.

Thank you for letting me be of service to you.

Sincerely,



William C. Mims

1:213; 1:941/09-008

⁹Op. Va. Att'y Gen.: 1975-1976 at 374, 375; 1973-1974 at 395, 396; 1963-1964 at 17, 17; *see also* 1975-1976 Op. Va. Att'y Gen. 375, 377-78 (concluding that commissioner of revenue cannot change value of real estate ascertained at general reassessment; locality may not increase tax rate applicable to public service corporation property absent enabling legislation).

¹⁰*See supra* note 4 and accompanying text.