

MAYOR
MICHAEL A. PAVIA



CITY OF STAMFORD
OFFICE OF LEGAL AFFAIRS
888 WASHINGTON BOULEVARD
P.O. BOX 10152
STAMFORD, CT 06904 - 2152
Tel: (203) 977-4081
Fax: (203) 977-5560
June 3, 2013

DIRECTOR OF LEGAL AFFAIRS
AND CORPORATION COUNSEL
JOSEPH J. CAPALBO, II

DEPUTY CORPORATION COUNSEL
VIKKI COOPER

ASSISTANT CORPORATION COUNSEL
BARBARA L. COUGHLAN
CHRIS DELLASELVA
DANA B. LEE
BURT ROSENBERG
MICHAEL S. TOMA

Mr. Randall M. Skigen
President, Board of Representatives
City of Stamford

Re: Withdrawal of Zoning Board Nominee

Dear Mr. Skigen:

You have requested a legal opinion regarding Mayor Pavia's authority to withdraw the name of a nominee for reappointment to the Zoning Board after the Appointments Committee has voted on the nominee's qualifications. The City of Stamford Charter ("Charter") empowers the Board of Representatives ("Board") "to adopt and amend Rules of Order. Charter Section C2-10-8. According to the Rules of Order, the Board has authorized as one of its several standing committees, an Appointments Committee. The Appointments Committee "is responsible for interviewing and determining the qualifications of candidates (who are referred by the Mayor) for appointment to city boards, authorities and commissions. <http://boardsoreps.org/content/91778/91933/default.aspx>. In addition, the Appointments Committee provides information to the Board on the qualifications and performance of candidates for boards, authorities and commissions as well as appointed city department heads; reviews activities and accomplishments of boards, authorities or commissions and their appointees; and performs oversight on commissions and boards. *Id.* Although the Appointments Committee determines a nominee's qualifications for appointment and recommends the nominee to the Board for appointment, its vote regarding the nominee's qualifications is separate and a condition precedent to action by the Board.

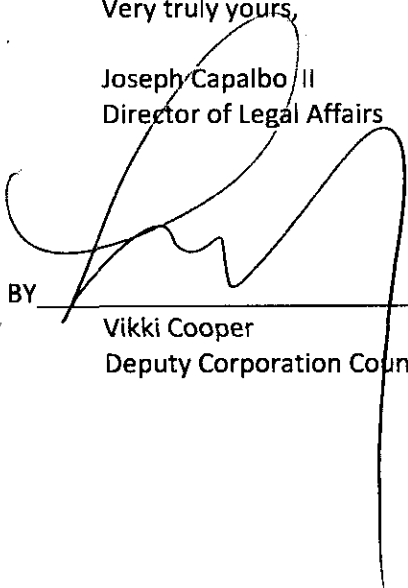
"It is well established that a city's charter is the fountainhead of municipal powers...The charter serves as an enabling act, both creating power and prescribing the form in which it must be exercised...Agents of a city...have no source of authority beyond the charter. Their powers are measured and limited by the express language in which authority is given or by the implication necessary to enable them to perform some duty cast upon them by express language." Alexander v. Retirement Board, 57 Conn. App. 751 (2000). The Charter enumerates the powers of the Board, and one of its many powers is "[t]o approve appointments to the Boards and Commissions specified in Section C6-00-3 of this Charter." See Section C2-10-2. Charter Section C6-00-3 reads in relevant part: The Mayor shall annually submit to the Board of Representatives...nominations of members to each appointive Board, Commission or other similar appointive position, to fill each vacancy where a term of office has expired....No nomination to such appointive Boards, Commissions, positions or "panel of alternatives" made by the Mayor shall become effective until approved by the Board of Representatives.

(Emphasis added). As clearly indicated by the Board's Rules of Order, the Appointments Committee has a very specific role limited to the review and evaluation of the nominee's qualifications. Thus, until the Board has approved the nominee in accordance with the Charter provisions, the Mayor has the ability to withdraw the nominee's name.

Very truly yours,

Joseph Capalbo II
Director of Legal Affairs

BY



Vikki Cooper
Deputy Corporation Counsel