



CITY OF STAMFORD, CONNECTICUT

To: Valerie Rosenson, Esq.; Kathryn Emmett, Esq.
From: Dana B. Lee, Esq. (Electronically Signed)
Copy: Judith Isidro; Monika White
Date: January 4, 2021
RE: Opinion Re: Appointment of Next Charter Revision Commission

Issue:

When should the next review of the Charter be undertaken in accordance with Stamford Charter Section C1-40-5?

Brief Answer:

At the earliest, the next non-interim Charter Revision Commission may properly begin its review in and around October 2021, ten years from the time the last non-interim Charter Revision Commission commenced its review. However, the Board of Representatives has up until February of 2022 to appoint the Commission.

Pertinent Facts:

The 16th Charter Revision Commission was formed in February 2003 and was given until February 2004 to submit its draft report, but submitted its draft report in March, 2004 and its final report in May, 2004. The referendum was held in November, 2004

The 17th Charter Revision Commission was appointed in October of 2011. A Committee started to review applicants for the Commission in August 2011, with a goal of a 2012 or 2013 ballot referendum. The Commission began work in October 2011 with a deadline of May 15th for a draft report and completed its work in June 2012. The referendum on proposed amendments and revisions held in November, 2012.

Analysis:

The following provisions of Charter § C1-40-5 govern when the next review of the Charter should be undertaken.

Stamford Charter § C1-40-5 provides, in pertinent part, that

A mandatory review of all the provisions of and amendments to this Charter shall be undertaken at ten-year intervals by a Charter Revision Commission to be appointed in accordance with the provisions of Home Rule Law. (emphasis added).

Such review shall be conducted by a Charter Revision Commission **which shall be appointed** not later than the regular February meeting of the Board of Representatives **in 2002 and each successive ten-year period**. Such Commission shall be required to report in accordance with the Home Rule Law.

The resolution of the issue requires the application of well settled rules of statutory construction. That is, “(i)n construing a city charter, the rules of statutory construction generally apply ... In arriving at the intention of the framers of the charter the whole and every part of the instrument must be taken and compared together. In other words, effect should be given, if possible, to every section, paragraph, sentence, clause and word in the instrument and related laws.” (Internal quotation marks omitted.) *Kiewlen v. Meriden*, 317 Conn. 139, 149, 115 A.3d 1095 (2015). Moreover, “(a) statute which provides that a thing shall be done in a certain way carries with it an implied prohibition against doing that thing in any other way.” *Barlow v. Kaminsky*, 144 Conn. 612, 620 (1957); *Jones v. Civil Service Commission*, 175 Conn. 504, 509 (1978).

The first paragraph of § C1-40-5 requires that a “mandatory review” of all the provisions and amendments to the Charter “shall be undertaken at ten-year intervals.” The language of § C1-40-5 is clear and unambiguous. The use of the word ‘shall’ connotes that the performance of the statutory requirements is mandatory rather than permissive. See, e.g., *Hossan v. Hudiakoff*, 178 Conn. 381, 383, 423 A.2d 108 (1979); *Akin v. Norwalk*, 163 Conn. 68, 74 (1972) Similarly, the dictionary provides multiple definitions of the word “mandatory,” --“binding,” “obligatory, compulsory, not discretionary, required by law,” and “compulsory.” See e.g., *Webster’s Third Int’l Dictionary*, 1961.

The 17th Charter Revision Commission was appointed in October of 2011. A Committee started to review applicants for the Commission in August 2011, with a goal of a 2012 or 2013 ballot referendum. As a result, the next Charter Revision Commission should be appointed ten years from that time interval.

Further, the rules of statutory construction require us to give effect to the second paragraph of § C1-40-5. The second paragraph of § C1-40-5 provides that the appointment shall be made “not later than the regular February meeting of the Board of Representatives **in 2002 and each successive ten-year period**.” The language of this provision and the legislative history of § C1-40-5 reveals an intent to identify February as the actual “drop dead” month for the appointment the Commission. See *Charter Referendums*, § C1-40-5, dated 11/8/77; 11/3/87; 11/7/95; 11/6/12. Consequently, the Board of Representatives has until February of 2022 to appoint the next Commission.

Finally, the prior opinions of Corporation Counsel Larobina and President Skigen are both premised on the understanding that the provisions of the Charter require a review every ten years in accordance with §C1-40-5, which is the conclusion of this opinion. Therefore, the appointment of the next Commission at an earlier, or later date than ten years from the appointment of 17th Charter Commission would violate the Charter and must be avoided.