

GEORGE C. JEPSEN  
ATTORNEY GENERAL



55 Elm Street  
P.O. Box 120  
Hartford, CT 06141-0120

Office of The Attorney General  
**State of Connecticut**

July 29, 2011

Brian Sigman  
Executive Director  
Board of Education and Services for the Blind  
184 Windsor Ave.  
Windsor, CT 06095

Dear Mr. Sigman:

Your agency has requested this office's opinion as to whether Conn. Gen. Stat. § 10-303 applies to various governmental entities such as the Greater Hartford Transit District, the Connecticut Resources Recovery Authority, the Metropolitan District Commission, and Metro-North Commuter Railroad. Section 10-303 allows the Board of Education and Services for the Blind (BESB) to operate vending machines and stands in buildings owned, operated or leased by the State or any municipality. We conclude that none of the governmental entities about which you inquire is the State or a municipality within the meaning of § 10-303, and therefore the statute does not apply to their buildings.

Section 10-303(a) provides in pertinent part:

The authority in charge of any building owned, operated or leased by the state or *any municipality* therein shall grant to the Board of Education for Services of the Blind a permit to operate in such building or on such property a food service facility, a vending machine or stand for the vending of newspapers, periodicals, confections, tobacco products, food and such other articles as such authority approves when, in the opinion of such authority, such facility, machine or stand is desirable in such location.

Conn. Gen. Stat. § 10-303(a) (emphasis added). Under this statute, the BESB places, and collects revenue from, vending machines in many State and municipal buildings.

The governmental entities about which you inquire are not State entities. Therefore, the question of § 10-303's applicability to them depends on whether they constitute municipalities within the meaning of the statute. Section 10-303 itself, however, does not define the term "municipality." The legislative history of § 10-303 provides no guidance.

There is no single legal definition of the term municipality. A common definition is

[a] legally incorporated or duly authorized association of inhabitants of limited area for local governmental or other political purposes. A body politic created by the incorporation of the people of a prescribed locality invested with subordinate powers of legislation to assist in civil government of the state and to regulate and administer local and internal affairs of the community. A city, borough, town, township or village.

*Black's Law Dictionary*, 1018 (6th ed.) (citations omitted).

Throughout our statutes, municipality is defined differently for different statutory purposes. For example, under Chapter 98 of the General Statutes relating to municipal powers, a municipality is defined as "any town, city or borough, consolidated town and city or consolidated town and borough." Conn. Gen. Stat. § 7-148(a). This same basic definition is found in the statutes relating to municipal charters, Conn. Gen. Stat. § 7-187(d); public recreational facilities authorities, Conn. Gen. Stat. § 7-130a(b); historic districts, Conn. Gen. Stat. § 7-147a(a); municipal gas and electric plants, Conn. Gen. Stat. § 7-213; and municipal resource recovery authorities, Conn. Gen. Stat. § 7-273aa(a)(2).

By contrast, many other statutes define municipality more broadly, often to include, in addition to towns, cities and boroughs, certain districts or other entities for purposes of the specific statutory scheme. *See, e.g.*, Conn. Gen. Stat. § 7-359 (for purposes of municipal reserve fund statutes, including "any fire district" in definition of municipality); Conn. Gen. Stat. § 7-369 (for purposes of municipal bond issuance statutes, including "any metropolitan district, any district, as defined in section 7-324, and any other municipal corporation having the power to levy taxes and to issue bonds, notes or other obligations in definition of municipality"); Conn. Gen. Stat. § 7-381 (for purposes of municipal uniform fiscal years, defining municipality as "any political subdivision of the state having

the power to make appropriations or to levy taxes, including any town, city or borough, whether consolidated or unconsolidated, any village, school, sewer, fire or lighting district, beach or improvement association, and any other tax district or association, but not including The Metropolitan District of Hartford County”); Conn. Gen. Stat. § 7-401(2) (for purposes of municipal finance statutes, including “any school district, regional school district, district, as defined in section 7-324, metropolitan district, and each municipal corporation, organization or authority and taxing district”); Conn. Gen. Stat. § 7-425(1) (for purposes of municipal retirement statutes, including “school district, regional school district, taxing district, fire district, district department of health, probate district, housing authority, regional work force development board . . . , regional emergency telecommunications center, tourism district . . . , flood commission or authority”).

In addition to the varying statutory definitions is the common law principle that tax districts, fire districts, sewer districts and the like are not municipalities themselves but “quasi-municipal corporations” to which the law of municipal corporations generally applies. *AvalonBay Communities, Inc. v. Sewer Comm’n*, 270 Conn. 409, 425 (2004); *Stroiney v. Crescent Lake Tax Dist.*, 205 Conn. 290, 294 (1987); *Larkin v. Bontatibus*, 145 Conn. 570, 576 (1958); see also *Black’s Law Dictionary*, 1017-18 (6th ed.) (defining quasi-municipal corporation as “[b]odies politic and corporate, created for the sole purpose of performing one or more municipal functions . . . but not municipal corporations proper, such as cities and incorporated towns”).

With this background in mind, it is apparent that the legislature may choose to include districts and other local or regional entities within the definition of municipality depending on the purpose of a particular statutory scheme. The differently tailored definitions illustrate that the legislature knows how to create a more expansive meaning of the term municipality when it deems it appropriate. See *Foley v. State Elections Enforcement Comm’n*, 297 Conn. 764, 786 (2010) (legislature knows how to extend a requirement to certain circumstances if it wants to); *Oxford Tire Supply, Inc. v. Commissioner of Revenue Serv.*, 253 Conn. 683, 699 (2000) (same). When the legislature has not chosen to provide a more expansive definition, we are appropriately hesitant to read into the statute a broader meaning of municipality. See *Cruz v. Montanez*, 294 Conn. 357, 370 (2009) (court may not supply language the legislature has chosen to omit). What is common among all these definitions, however, is that towns, cities and boroughs are municipalities. In the absence of a specific definition or some other evidence of intent, we cannot presume that the legislature intended to include local or regional entities other than towns, cities and boroughs when it used the word municipality in § 10-303.

July 29, 2011

Brian Sigman  
Executive Director

Page 4

Because the various entities about which you inquire each have a different statutory genesis, we evaluate each separately.

#### Greater Hartford Transit District

The Greater Hartford Transit District is authorized by Conn. Gen. Stat. § 7-273b, which provides in pertinent part:

Any town, city or borough may, by itself or in cooperation with one or more municipalities, form a transit district, in the manner and for the purposes hereinafter provided. The district shall be a body corporate and politic. . . .

Conn. Gen. Stat. § 7-273b(d). Transit districts are authorized to assume the powers of the Department of Transportation to regulate and supervise the operation of any private transit system within the district or to operate a transit system in the district. Conn. Gen. Stat. §§ 7-273d, 7-273e. They may issue bonds and acquire property by eminent domain. Conn. Gen. Stat. §§ 7-273e(c), 7-273g.

Transit districts are political subdivisions of the State. *See* Conn. Atty. Gen. Op. No. 2008-008 (Apr. 30, 2008). This does not end our inquiry, however. All municipalities are political subdivisions, but not all political subdivisions are municipalities. *See State ex rel. Masiano v. Mitchell*, 155 Conn. 256, 263-64 (1967) (broadly construing political subdivision as any subordinate division of the State established for the purpose of carrying out a public purpose of the State); Atty. Gen. Op. No. 98-008 (July 1, 1998) (distinguishing between municipalities and other political subdivisions for purposes of the Municipal Auditing Act). Nothing in the statutory provisions governing transit districts suggests they should be treated as municipalities for purposes of § 10-303. Lacking evidence that the legislature meant to include transit districts within the ambit of § 10-303, we must conclude that it does not apply to the buildings of the Greater Hartford Transit District.

#### Connecticut Regional Resources Recovery Authority

The Connecticut Regional Resources Recovery Authority (CRRRA) is

a body politic and corporate, constituting a public instrumentality and political subdivision of the state

July 29, 2011

Brian Sigman  
Executive Director

Page 5

of Connecticut established and created for the performance of an essential public and governmental function. . . . [It] shall not be construed to be a department, institution or agency of the state.

Conn. Gen. Stat. § 22a-261(a). Among other things, the CRRA is authorized to own and operate solid waste disposal and resource recovery facilities and to provide solid waste management services to municipalities and others. Conn. Gen. Stat. § 22a-262. As discussed above, although the CRRA is a political subdivision of the State, that does not mean that it is a municipality for purposes of § 10-303. Because there is no evidence that the General Assembly intended to include the CRRA within the meaning of municipality in § 10-303, we must conclude that § 10-303's provisions do not apply to the CRRA's buildings.

#### Metropolitan District Commission

The Metropolitan District Commission (MDC) is a municipal corporation and political subdivision of the State created by a special act with authority relating to sewage disposal, water supply and regional planning among other things. *Martel v. Metropolitan Dist. Comm'n*, 275 Conn. 38, 41 (2005); *Rocky Hill Convalescent Hosp., Inc. v. Metropolitan Dist.*, 160 Conn. 446, 450-51 (1971); Conn. Spec. Act No. 511 (1929). Under its charter, it has the power to tax, issue bonds and take property by eminent domain. *Id.* The MDC is expressly defined as a municipality for the purposes of some statutes and not for some others. Compare, e.g., Conn. Gen. Stat. § 7-401(2) (included) with Conn. Gen. Stat. § 7-381 (excluded). Its characterization as a municipal corporation and political subdivision and its significant governmental powers alone do not answer the question whether it is a municipality for purposes of § 10-303. In the absence of some evidence that the legislature specifically intended to include the MDC within the meaning of the term municipality in § 10-303, we must conclude that it did not.

#### Metro-North Commuter Railroad

The Metro-North Commuter Railroad (Metro-North) is a commuter rail service for New York City, its northern suburbs and southwestern Connecticut. The New Haven Line is operated pursuant to a compact between the State of Connecticut and the State of New York. Conn. Gen. Stat. §§ 16-343, 16-344. Metro-North is a subsidiary of the Metropolitan Transit Authority (MTA), a public benefit corporation created under New York law. N.Y. Pub. Auth. L. §

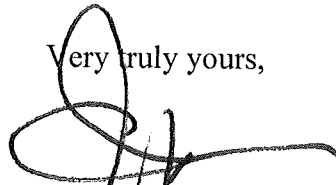
July 29, 2011  
Brian Sigman  
Executive Director  
Page 6

1260 *et seq.* Any buildings owned, operated or leased by Metro-North or the MTA, therefore, are not subject to § 10-303.

Although the applicability of § 10-303 to other governmental entities may require a case-by-case analysis, the above discussion should provide some basic guidance. I am sympathetic to your agency's mission and appreciative of its good work on behalf of its clientele. However, without more evidence of a legislative intent, I cannot conclude that the entities about which you have inquired are "municipalities" within the meaning of your statute. You might wish to consider approaching the General Assembly to seek to change the law in this regard.

We trust that this answers your questions and we remain available to address any other specific questions you may have as to § 10-303's applicability.

Very truly yours,

A handwritten signature in black ink, appearing to read "G. Jepsen", with a large, stylized flourish at the end.

GEORGE JEPSEN  
ATTORNEY GENERAL