



OFFICE OF THE ATTORNEY GENERAL
CONNECTICUT

WILLIAM TONG
ATTORNEY GENERAL

October 5, 2022

Jeffrey R. Beckham
Secretary
Office of Policy and Management
450 Capitol Avenue
Hartford, Connecticut 06106

Dear Secretary Beckham:

By letter dated March 1, 2022, you have requested a formal opinion regarding § 12-55 of the Connecticut General Statutes. Specifically, you have asked the following questions:

- ❖ Does an assessor need to be employed by the town for which he/she is signing a Grand List to satisfy the requirements of C.G.S. § 12-55 or is it sufficient that a certified assessor who is a non-town employee familiarize themselves with the municipality's administration of the Grand List, review all property in question, and using their own independent judgment, confirm it was a fair administration of the local property tax to satisfy the dictates of C.G.S. § 12-55?
- ❖ What agency(s) or person(s) has enforcement authority over C.G.S. § 12-55?

As you know, the primary role of Connecticut's assessors is to value property and assemble each municipality's grand list, which serves as the basis for the municipality's property taxes. The General Assembly has articulated a statutory system to ensure that municipalities assess property values carefully and fairly. As part of that system, assessors must be properly trained, certified, and sworn; must meet a legislatively-defined timeline; and are subject to decertification by the Secretary of Connecticut's Office of Policy and Management (OPM) if they fail to fulfill their responsibilities. However, as explained below, Conn. Gen. Stat. § 12-55 does not require that assessors be employees – as opposed to contractors – of the municipalities they serve. As for enforcement authority, it appears that there are a number of possible enforcement mechanisms, including OPM's authority to enforce delinquent assessors' obligations and, with sufficient cause, to rescind or decline to renew their certifications.

Legal Background: The Roles, Responsibilities, and Qualifications of Municipal Assessors

Chapter 203 of Connecticut's General Statutes governs the valuation, imposition, and collection of municipal property taxes. In Connecticut, property taxes are based on valuations determined by

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certified assessors. The legislature has imposed standards to promote assessors' accuracy, integrity, and expertise.

The statutory scheme charges assessors with revaluing property every five years. Conn. Gen. Stat. § 12-62. They must revalue whenever property damage requires total demolition or reconstruction, Conn. Gen. Stat. § 12-64a, or when new construction is completed. Conn. Gen. Stat. § 12-53a. Before finishing each revaluation, assessors must conduct a field review. Conn. Gen. Stat. § 12-62(b)(2). Every ten years, for each taxable structure in the jurisdiction, assessors must “measure or verify the exterior dimensions of [the] building or structure” and must also “enter and examine the interior of such building or structure in order to observe and record or verify the characteristics and conditions thereof.” Conn. Gen. Stat. § 12-62. Assessors revaluing property must use generally accepted mass appraisal methods, “which may include, but need not be limited to, the market sales comparison approach to value, the cost approach to value and the income approach to value.” Conn. Gen. Stat. § 12-62(b)(2).

By January 31 of each year, the assessor working for each municipality must sign and publish the municipality's grand list – a record of all the municipality's taxable and tax-exempt property. Conn. Gen. Stat. § 12-55(a). An abstract of the list is then filed with OPM on or before May 1. Conn. Gen. Stat. § 12-120.¹ Before publishing the list, an assessor must “take and subscribe to the oath, pursuant to section 1-25, which shall be certified by the officer administering the same and endorsed upon or attached to such grand list.” Conn. Gen. Stat. § 12-55(a). In taking the oath, the assessor attests or affirms “that all the lists, and the abstract of said town... are made up and perfected according to law; so help me God or upon penalty of perjury.” Conn. Gen. Stat. § 1-25.

Assessors who sign each municipality's grand list must “be certified in accordance with the provisions of section 12-40a.” Conn. Gen. Stat. § 12-55(a). A committee under OPM's auspices is charged with developing policies for training, testing, certifying, and recertifying assessors. The certification process is intended to ensure that assessors have relevant substantive and methodological knowledge, and appreciate the ethical standards of their profession. *See* Conn. Gen. Stat. § 12-40a. OPM's Secretary is empowered to grant certification – or to rescind it “for sufficient cause as said secretary may determine.” *Id.*

Assessors Must Adhere to the Statutory Scheme – But Need Not Be Municipal Employees

¹ On the same date, the assessor must also certify to the Secretary of the Office of Policy and Management “the amount of exemptions approved under the provisions of subdivisions (60), (70), (72) and (76) of section 12-81 for the most recently completed assessment year, together with such supporting information as the secretary may require.” Conn. Gen. Stat. § 12-120c.

You asked for a formal opinion about the employment status and job responsibilities of Connecticut’s municipal assessors:

Does an assessor need to be employed by the town for which he/she is signing a Grand List to satisfy the requirements of C.G.S. § 12-55 or is it sufficient that a certified assessor who is a non-town employee familiarize themselves with the municipality’s administration of the Grand List, review all property in question, and using their own independent judgment, confirm it was a fair administration of the local property tax to satisfy the dictates of C.G.S. § 12-55?

Assessors must comply with the requirements of every relevant statute and regulation – including the ones you list, which may not be exhaustive. But an assessor need not be a municipal employee.

In interpreting statutes, we start with the text itself. *See* Conn. Gen. Stat. § 1-2z. Here, the text is clear. There is no language in § 12-55, or anywhere else in the General Statutes, requiring that assessors be “employed” by the municipalities for which they work.² So any argument that the legislative scheme requires assessors to be “employed” must fall back on implication from statutory purpose and context. And here, too, I find no evidence that the legislature meant to mandate an employer-employee relationship between municipalities and assessors.

There is no single test for whether a worker is an employee or a contractor in all instances. For instance: Connecticut uses the three-part “ABC test” to determine whether a worker is classified as an employee for purposes of unemployment compensation. Conn. Gen. Stat. § 31-222. The federal government uses a different 20-factor test to determine whether a worker is an employee for purposes

² You forwarded a letter from a professional affinity organization, the Connecticut Association of Assessing Officers, Inc. (“CAAO”), suggesting that § 12-55(a)’s requirement that “the assessors or board of assessors shall publish the grand list for *their* respective towns” implies a possessory relationship that can be satisfied only by employment. I do not agree.

Words and phrases in a statute are “construed according to the commonly approved usage of the language.” Conn. Gen. Stat. § 1-1(a). “In interpreting the language of a statute, the words must be given their plain and ordinary meaning and their natural and usual sense unless the context indicates that a different meaning was intended.” *Conn. Energy Marketers Ass’n v. DOE*, 324 Conn. 362, 393-394 (2016); *see State v. Menditto*, 315 Conn. 861, 866 (2015) (“Accordingly, General Statutes § 1-1 (a) directs that we construe the term according to its commonly approved usage, mindful of any peculiar or technical meaning it may have assumed in the law. We may find evidence of such usage, and technical meaning, in dictionary definitions, as well as by reading the statutory language within the context of the broader legislative scheme.”).

“Their” means “of or relating to them or themselves especially as possessors, agents, or objects of an action.” *Their*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/their> (last visited Sep. 27, 2022). Employers do not, under any circumstances, “possess[]” workers. Given the most logical ordinary meaning, then, the statutory “their” denotes an agency relationship that is entirely consistent with independent contracting.

of federal income-tax withholding. *See* IRS Form SS-8. A worker’s classification depends on the test applied – and on the particular facts of their case, since all applicable inquiries are fact-intensive. *See, e.g., Southwest Appraisal Group, LLC v. Administrator, Unemployment Comp. Act*, 324 Conn. 822, 839 (2017).

There are hypotheticals in which a statutory scheme might be interpreted to imply the need for an employer-employee relationship. Imagine, for instance, a legislative command that assessors be subject to granular control by their municipalities; that they work out of municipal office space; and that they do no independent assessing work. In that hypothetical, it might be fair to infer that the legislature intended assessors to be employees for unemployment compensation, since it mandated work requirements suggesting an employee classification under the applicable legal test.³

But nothing in the statutory scheme actually enacted by the legislature supports an inference of an employment mandate for assessors. Chapter 203 is unconcerned with classifying the employment relationship. Instead, it demands compliance with rules aimed at ensuring fair and accurate valuations – rules that, depending on the facts of each working relationship, are not necessarily incompatible with independent contracting.

Municipalities are motivated to ensure that assessors working for them are scrupulously fair, thorough, ethical, and compliant with all relevant laws and rules. After all, aggrieved property owners can sue municipalities for wrongful or excessive assessments.⁴ But getting assessments right does not depend on the nature of the employment relationship. Independent contractors, too, can be held to standards of professionalism and ethics.⁵ *See, e.g.,* Conn. Gen. Stat. §§ 1-86e, 1-101nn (providing ethical rules for state contractors). Contractors can also be held by contract to statutory quality and methodological standards, like the ones imposed on assessors by Connecticut’s statutory scheme. *See generally* Benjamin

³ *See* Conn. Gen. Stat. § 31-222 (articulating the ABC test for unemployment compensation).

⁴ A property owner can appeal an assessment to the board of assessment appeals. Conn. Gen. Stat. § 12-111(a). If the board chooses not to conduct a hearing, the owner can seek relief from the Superior Court. *Id.* The owner can appeal an adverse board decision to the Superior Court. Conn. Gen. Stat. § 12-117a(a)(1). If the owner is successful and “the assessment made by the board of tax review or board of assessment appeals, as the case may be, is reduced by said court, the applicant shall be reimbursed by the town or city for any overpayment of taxes, together with interest and any costs awarded by the court, or, at the applicant’s option, shall be granted a tax credit for such overpayment, interest and any costs awarded by the court.” Conn. Gen. Stat. § 12-117a(b).

⁵ The CAAO letter you forwarded asserts that anything other than an employer-employee relationship “allows... for political intervention which is exactly what C.G.S. 12-55 was intended to avoid.” Inappropriate political intervention in property valuation can be both unethical and illegal, but there is no reason to believe that a municipal employee who depends on political actors for their entire livelihood is less susceptible to political interference than an independent contractor. Municipalities are no strangers to ethics and conflicts clauses in contracts and may wish to craft agreements with assessors – whether employees or contractors – that explicitly require compliance with all relevant ethical and legal requirements.

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Barnes, Office of Policy and Management, *Procurement Standards for Personal Service Agreements and Purchase of Service Contracts* (Dec. 5, 2014) (providing standards for Connecticut state government contracts, including guidance on writing quality measures). The statutory assessment scheme requires adherence to Chapter 203 and all other applicable law, and municipalities can consider writing contracts that incorporate all relevant statutory mandates. An employer-employee relationship is not among those mandates.

OPM's Secretary Is Empowered to Enforce Assessors' Obligations and Rescind their Certifications

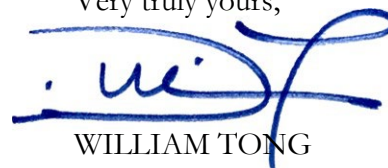
Your second question was: "What agency(s) or person(s) has enforcement authority over C.G.S. § 12-55?" Aspects of that statute – and of the entire property tax system – are enforced by different actors in different ways. Among them: Taxpayers may be able to appeal and sue over improper or inaccurate assessments. Municipalities may have contract remedies against assessors who violate statutory requirements. OPM's Secretary can sue to enforce delinquent assessors' obligations. And, with sufficient cause, the Secretary can rescind or decline to renew their certifications.

Taxpayers can sue if they believe that an assessor overvalued their property in derogation of the statutory scheme. Conn. Gen. Stat. § 12-119. So municipalities have an incentive to hold assessors to high standards. Assessors, in turn, are motivated to measure up. They can be held accountable, including where applicable through suit on breach of contract, if they fail to live up to the expectations of the municipalities for whom they work.

Assessors can also be compelled to follow the statutory scheme. Section 12-4 of the General Statutes authorizes the OPM Secretary to call to account, in writing, any "assessor[]" who "fails to discharge his or its administrative duty according to law." If the assessor does not remedy the failure, the Secretary may sue for relief seeking "an order in the nature of a mandamus requiring compliance with the provisions of the statute particularly mentioned in such application, and shall render judgment against any official, board or person who has so failed, with costs." *Id.* Finally, the Secretary has the power to rescind an assessor's certification "for sufficient cause as said secretary may determine." Conn. Gen. Stat. § 12-40a(b). Assessors cannot practice in Connecticut without this certification.

I trust this opinion is responsive to your request.

Very truly yours,



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