State of Connecticut

GEORGE C. JEPSEN
ATTORNEY GENERAL

Hartford

August 4, 2011

The Honorable Ronald F. Angelo, Jr.
Deputy Commissioner
Department of Economic and Community Development
505 Hudson Street
Hartford, Connecticut 06106

Dear Deputy Commissioner Angelo:

You have requested a legal opinion on whether an instrumentality of an out of state public housing authority may act as a public housing authority in Connecticut without being authorized to act as a public housing authority according to the requirements of Connecticut law. I conclude that an instrumentality of an out of state public housing authority may not act as a public housing authority in Connecticut without first being authorized to do so according to Connecticut law. The Connecticut statutes governing the creation and powers of public housing authorities are clear and constitute a pervasive regulatory scheme. It would be inconsistent with that pervasive regulatory scheme and the express terms of Connecticut law for any entity to act as a public housing authority without complying with the requirements of Connecticut law governing their creation and regulation.

The Connecticut General Assembly has determined that the provision of safe and sanitary housing for low and moderate income persons is a matter of necessity and in the public interest of the state. *See* Conn. Gen. Stat. § 8-38. Toward that end, the General Assembly has authorized the creation of public housing authorities throughout the state. *See* Conn. Gen. Stat. § 8-40. A "public housing authority" is defined in Connecticut law as either the Connecticut Housing Authority[1] or any public corporation created under the provisions of Conn. Gen. Stat. § 8-40. *See* Conn. Gen. Stat. § 8-39(b); *see also* Regs. Conn. State Agencies § 8-68d-1 (setting forth the same definition of "public housing authority"). Conn. Gen. Stat. § 8-40 requires that the governing body of any municipality wishing to create a public housing authority must pass a resolution declaring the need for such an authority. Conn. Gen. Stat. § 8-40 also expressly states that a housing authority

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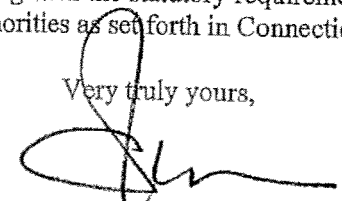
1 The Connecticut Housing Authority has been succeeded by the State Housing Authority, which is a subsidiary of the Connecticut Housing Finance Authority. *See* Conn. Gen. Stat. §§ 8-244c and 8-244b.

"shall not transact any business or exercise any powers hereunder until the governing body of the municipality" passes such a resolution.

Once a public housing authority is properly established, its powers and responsibilities are substantial. For example, a public housing authority may establish a police force, *see* Conn. Gen. Stat. § 8-44b, issue tax-exempt bonds, *see* Conn. Gen. Stat. §§ 8-244d, 8-252, and 8-52, acquire property by eminent domain, *see* Conn. Gen. Stat. § 8-50, and exercise supervisory authority over residential property, agents, managers, and tenant selection plans, *see* Conn. Gen. Stat. §§ 8-253a (7) (C) and (E); 8-44; 8-254a and 8-45. Additionally, public housing authorities in Connecticut are required to submit an annual report of their activities to the municipality they serve and to the Commissioner of Economic and Community Development. *See* Conn. Gen. Stat. § 8-68d. Such reports are required to include information relating to the housing authority's inventory of existing housing, new construction projects, and the number and types of housing sold, leased or transferred during the reporting period. *See* Regs. Conn. State Agencies § 8-68d-1. Indeed, the Connecticut Supreme Court has held that a public housing authority is a "creature of statute" and is "pervasively regulated" by the state. *See Connelly v. Housing Authority of the City of New Haven*, 213 Conn. 354, 361 (1990) (holding that a public housing authority is not subject to a private unfair trade practice claim because it is subject to a pervasive regulatory scheme that does not provide for such liability); *see also City of Norwich v. Housing Authority of Town of Norwich*, 216 Conn. 112, 122-23 (1990) (holding that public housing authorities are creatures of both the state and the municipality creating the authority).

Given the express provision of Conn. Gen. Stat. § 8-40 that housing authorities "shall not transact any business or exercise any powers" until they are created by the municipality they serve, the Connecticut Supreme Court's holding that a public housing authority is a "creature of statute" that is "pervasively regulated" by the state, and the significant powers a properly authorized housing authority possesses, it is my legal opinion that no instrumentality of an out of state housing authority may act as a public housing authority in Connecticut without first complying with the statutory requirements governing the creation and powers of public housing authorities as set forth in Connecticut law.

Very truly yours,



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