

THE CHARTER BOARD OF THE CITY OF READING

IN RE:            Elimination of Charter            :            Request Filed: October 20, 2009  
                      mandated department            :  
                      directors.                                    :            Advisory Opinion No. 18

**ADVISORY OPINION**

**I.            PROCEDURAL HISTORY AND QUESTION PRESENTED**

By letter of October 20, 2009 the President of Reading’s City Council, Vaughn D. Spencer, (“Spencer”) requested that the City of Reading Charter Board (“Board”) issue an advisory opinion. The question presented by Spencer is whether or not the Mayor and Managing Director of the City of Reading may eliminate the position of Director of Human Resources when the position is mandated by Charter § 705? The Board, in responding to this request for advisory opinion, frames the question slightly broader and asks whether or not the position of any Charter mandated director of a Charter mandated department may be eliminated?

The Board answers in the negative.

**II.            DISCUSSION AND ANALYSIS**

Charter § 705 provides in part:

“There shall be a Department of Human Resources. A director of the Department of Human Resources shall be appointed by the Mayor.”

Charter § 606(a) provides in part:

“The Department of Public Works is mandated by this Charter. The Mayor shall appoint and fix the compensation of the head of the Department of Public Works/City Engineer.”

Charter § 607 provides in part:

“There shall be a Department of Finance which is established for the purpose of creating a unified city accounting system. A Director of Finance shall be appointed by the Mayor with confirmation of Council (as per Section 603).”

Charter § 801(a)<sup>1</sup> provides in part:

“Mayor shall appoint, with the approval of Council, a Solicitor who shall be a member of the Bar of the Supreme Court of Pennsylvania and experienced in municipal law. The Solicitor, as Head of the Legal Department, shall serve as chief legal advisor to the Mayor . . . .”

Without question the Charter mandates that directors of the Department of Human Resources, Department of Public Works, Department of Finance and the City Solicitor shall exist and be appointed by the Mayor.

The roles of these Charter mandated directors, and of the City Solicitor were considered essential to the functioning of City government by the authors of the Charter. The Charter recognizes the essential character of these positions by requiring that they exist. A Charter mandated position may not be eliminated by ordinance, resolution, or by the City’s administration through the budgetary process.<sup>2</sup>

### III. OPINION OF THE BOARD

The Opinion of the Board is that Charter mandated directors, including the Director of the Department of Human Resources, may not be eliminated and that doing so violates the Charter.

CITY OF READING CHARTER BOARD

By: Susan J. Gibson  
Susan Gibson, Chair

Date: November 5, 2009

<sup>1</sup> See also Charter § 309(a) (requiring the Mayor to appoint a City Solicitor).

<sup>2</sup> Charter, Amendment I, §1(a), relating to the supremacy of the Charter, provides:

Governing law of the City. This Charter is the governing law of the City of Reading. No action or inaction by City Council, the Administration, or any other body created by this Charter shall be taken contrary to it, whether individually or collectively, by ordinance, resolution, practice, executive order or decision, or any other means.

The wording of the Charter, and acts pursuant to it, shall in all cases be strictly construed so as to effectuate its clear intent.