

THE CHARTER BOARD OF THE CITY OF READING

IN RE: Prohibition on holding : Request Filed: April 27, 2009
elective or party office, :
Charter §§ 1002(a) and 1201(c) : Advisory Opinion No. 15

ADVISORY OPINION

I. PROCEDURAL HISTORY AND QUESTION PRESENTED

By letter dated April 27, 2009 the City of Reading’s Board of Ethics (“Ethics Board”) through the City Clerk, Linda Kelleher, requested that the City of Reading Charter Board (“Board”) issue an advisory opinion.

The question presented by this advisory opinion is whether the Sections 1002(a) and 1201(c) of the Charter of the City of Reading (“Charter”) prohibits a member of the Ethics Board from serving as Judge of Elections or an Inspector of Elections?

II. DISCUSSION

A. Applicable Charter and Statutory Provisions

Charter § 1002(a) provides in part that “[n]o appointee of any board or commission shall hold any other elected public office or any compensated position for the City.” Further, Charter § 1201(c) provides in part that no member of the Ethics Board “may hold elective or city office under the City or any other government or hold any political party office.”¹

25 P.S. § 2671, relating to district election boards and their election, provides:

All primaries and elections shall be conducted in each election district by a district election board consisting of a judge of election, a majority inspector of election and a minority inspector of election, assisted by clerks and machine inspectors in certain cases, as hereinafter provided. The judge and inspectors of election of each election district shall be elected by the electors thereof at the municipal election, and shall hold office for a term of four years from the first Monday of January next succeeding their election.

¹ Charter § 1201(c) mandates that the Mayor establish an “independent Board of Ethics . . . to administer and enforce the conflict of interest provision 1201 of this charter and the prohibition sections of this charter.”

Each elector may vote for one person as judge and for one person as inspector, and the person receiving the highest number of votes for judge shall be declared elected judge of election, the person receiving the highest number of votes for inspector shall be declared elected majority inspector of election, and the person receiving the second highest number of votes for inspector shall be declared elected minority inspector of election.

The Board will address the question presented as pertaining to the offices of judge of elections, majority inspector and minority inspector.

B. Analysis

The Board is mindful of the immeasurable service district election boards provide and thankful that citizens choose to participate in the democratic process in those roles. Nonetheless, the work of the Ethics Board is equally important. 25 P.S. § 2671 provides that judge of elections and majority and minority inspector of elections are elective offices. The Charter contains no exceptions to the prohibition of City board members² from serving in any elective office. Charter §§ 1002(a) and 1201(c) clearly mandate that members of the Ethics Board may not hold elective office.

The Board also notes that the Election Code appears to prohibit a member of the Ethics Board from sitting as a judge of elections or majority or minority inspector. 25 P.S. § 2672, relating to qualifications of election officers, provides in part:

(a) Except as provided in subsection (b), election officers shall be qualified registered electors of the district in which they are elected or appointed. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held, any office, appointment or employment in or under the Government of the United States or of this State or of any city or county or poor district, of any municipal board, commission or trust in any city, save only district justices, notaries public and persons in the militia service of the State; nor shall any election officer be eligible to any

² The prohibition stated in Charter § 1002(a) applies to boards, commission and authorities that are subject to the requirements of Charter, Article X. *See* Adv. Op. 14 (issued May 12, 2009). The Ethics Board is such a board.

civil office to be voted for at a primary or election at which he shall serve, except that of an election officer.

25 P.S. § 26072(a) (emphasis added). Here, a member of the Ethics Board would appear to hold an "office, appointment or employment" in the City, and would not be qualified to serve as judge of elections or majority or minority inspector.

III. OPINION OF THE BOARD

The Opinion of the Board is that Charter §§ 1002(a) and 1201(c) prohibit a member of the Ethics Board from serving as judge of elections or majority or minority inspector.

CITY OF READING CHARTER BOARD

By: *Susan J. Gibson*
Susan Gibson, Chair

Date: May 27, 2009