



CITY OF PROVIDENCE

Jorge O. Elorza, Mayor

MEMORANDUM

**To: The Honorable Luis A. Aponte, Council President
The Honorable Samuel D. Zurier, Councilman
Tony Simon, Chief of Staff to Mayor Jorge O. Elorza
Brett Smiley, Chief Operating Officer**

From: Jeffrey Dana, City Solicitor

**Re: City Treasurer's Authority to Retain Counsel Pursuant to Section 602(b)(7) of the
Home Rule Charter of the City of Providence**

Date: July 22, 2016

QUESTION:

May the City Treasurer retain counsel pursuant to Section 602(b)(7) of the Home Rule Charter of the City of Providence (the "Charter")?

SHORT ANSWER:

No. Pursuant to the Charter, the City Treasurer has no authority to retain counsel. While the City Council may approve the hiring of counsel by ordinance, such counsel would be subordinate to the City Solicitor.

ANALYSIS:

Pursuant to the Charter, the City Solicitor is the "chief legal advisor of and attorney for the city and all departments, boards, commissions, bureaus and officers thereof . . ." Sec. 603(b)(2). The Charter further explicitly provides that "[n]o department, board, commission, bureau or officer shall employ any other attorney at the expense of the city or through the use of any funds from the federal government or other source, unless otherwise provided by this Charter, or unless the city council shall approve such employment by ordinance." *Id.* (emphasis added.)

An examination of Section 602, setting forth the powers and duties of the City Treasurer, an appointed officer, provides no authority for the proposition that the Treasurer has the authority to retain counsel.

CITY SOLICITOR'S OFFICE

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Section 602(b)(7) provides that the Treasurer is to “supervise the preparation of bond ordinances, bonds, advertisements for sale of bonds and delivery of bonds, subject to provisions of state law and city ordinance.” The fact that the Treasurer requires the assistance of counsel to perform this function does not provide him with the authority to retain counsel that is independent of the City Solicitor. The Charter contains many provisions authorizing or requiring a variety of officials to perform any number of duties for which counsel could be necessary or beneficial. Under the Charter, these officials have the benefit of counsel – the City Solicitor.

While the City Council could retain counsel on behalf of the Treasurer by ordinance, the Charter further provides that “[a]ny attorney so authorized by the city council shall be subordinate to the city solicitor . . .” Sec. 603(b)(2).