



Executive Office, City of Providence, Rhode Island

VINCENT A. CIANCI, JR.

MAYOR

November 15, 1999

The Honorable Members
The City Council of the
City of Providence
City Hall
Providence, RI 02903

Dear Honorable Members:

Pursuant to Section 42-99-4 of the Rhode Island General Laws, I am this day reappointing Mr. Paul MacDonald of 514 Colwell Road, Harrisville, Rhode Island 02830 a member of the Convention Center Authority for a term to expire on June 30, 2003.

Sincerely,

A handwritten signature in cursive script that reads "Vincent A. Cianci".

VINCENT A. CIANCI, JR.
Mayor of Providence

VAC:cmh

IN CITY COUNCIL

DEC 16 1999

READ

WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED *and approved*

Michael R. Clement
CLERK

RECEIVED
DEC 2 1999
CITY OF CHICAGO
CLERK OF THE BOARD

IN CITY COUNCIL
DEC 2 1999

READ:
LAY ON TABLE

Michael R. Clement CLERK



Department of Law
"Building Pride In Providence"

December 16, 1999

The Honorable John J. Lombardi
President
City Council
City Hall
Providence, RI 02903

OPINION OF THE CITY SOLICITOR

Dear Council President Lombardi:

I am writing in response to your request for a legal opinion regarding conflicts of laws which may arise between the powers and authority prescribed by the statute known and cited as the "Convention Center Authority Act" (the Act) (P.L. 1987 ch. 455) codified in the 1998 reenactment of the General Laws of Rhode Island as Sec. 42-99-1 et seq. and the powers and authority delineated by the provisions of section 1210 of the Home Rule Charter of the City of Providence entitled "Residence requirement - exemptions".

In the course of my examination of the issue involved, it was necessary to study and analyze state constitutional provisions, legislative acts and Supreme Court opinions as well as city ordinances. This research included an analysis of R.I.G.L. Sections 42-99-1 through 42-99-22, various provisions of the Home Rule Charter viz., Sections 1207 and 1210 and other provisions of the Home Rule Charter relating to Boards and Commissions of the City of Providence.

The threshold question is: **Whether the residency requirement of the Home Rule Charter of the City of Providence applies to mayoral appointees to the R.I. Convention Center Authority?**

The legislative findings as set forth in Section 42-99-2(c) of the Convention Center Authority Act provides that "the public welfare and the further economic development and the prosperity of the State requires the establishment of these facilities and finances thereof...." (emphasis added). Section 42-99-4(a) further provides, inter alia, "... It is the intent of the general assembly by the passage of this chapter to incorporate a public corporation and instrumentality and agency of the State for the purpose of carrying on the activities authorized, and to vest that corporation with all powers, authority, rights, privileges, and titles that may be necessary to enable it to accomplish those purposes. This Chapter shall be liberally construed in conformity with the purpose expressed. (emphasis added).

The Convention Center has been located in the City of Providence by agreement between the Governor of the State of Rhode Island and the Mayor of the City of Providence in accordance with the authority conferred upon them in Section 42-99-4(c).

The Home Rule Charter of the City of Providence (adopted: September 18, 1980) grants power and authority to the City of Providence "...to act in all local and municipal matters and to adopt local laws and ordinances relating to its property, affairs and government."

It is clear that the provisions of Sections 42-99-1 through 42-99-22 creating the Convention Center Authority (the Act) were enacted by the General Assembly in conformance with the legislature's powers to enact laws for the welfare and economic development and prosperity of the State. It is also clear that the Act prescribes the methodology for the appointment of a board of commissioners who are vested with the authority and power necessary to enable them to carry out the expressed purposes.

The Act in no way makes reference to a residency requirement, nor does it restrict the appointing authority of the Chief Municipal Officer (i.e. the Mayor) of the host city to appoint persons based upon the residency of the appointee. The provisions of the Convention Center Authority Act have statewide application.

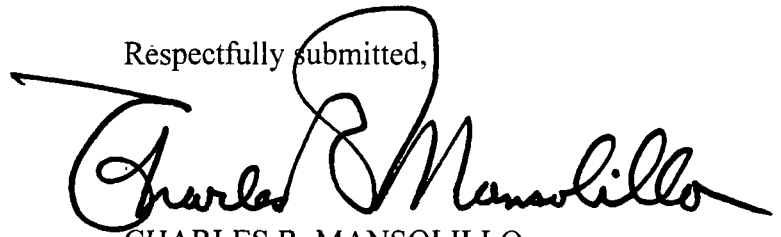
The residency requirement provisions of Section 1210 of the Home Rule Charter by its terms apply to officers and employees of city agencies and instrumentalities. The Rhode Island Supreme Court has stated that when the provisions of a City or Town Charter conflict with general laws of statewide application the general laws take precedence, see Lynch v. King 120 RI 868, 876-77, 391 A2d 117, 122 (1978). In O'Neill v City of East Providence 480 A2d 1375 (R.I. 1984) the East Providence City Charter and Chapter 1 of title 24 of the general laws, a statute of general application not affecting the form of local government provide differing procedures to be followed in eminent domain proceedings. In accord with the principal enunciated in Lynch the Supreme Court held that provisions of the state general laws control. The O'Neil court also held that although the home-rule amendment provides a broad grant of lawmaking authority to cities and towns that authority is not without limitation.

The Supreme Court has consistently held that when the provisions of a city or town charter conflict with legislation enacted by the General Assembly with statewide application, the provisions of the general laws supersede those of the charter.

In view of the above, I opine as follows:

The Providence Home Rule Charter residency requirements of Section 1210 do not apply to mayoral appointees to the Rhode Island Convention Center Authority. The Convention Center appointees are not officers or employees of the City of Providence or of any of its agencies or instrumentalities, and, therefore, the residency provisions of the Providence Home Rule Charter do not apply.

Respectfully submitted,



CHARLES R. MANSOLILLO
CITY SOLICITOR

cc: Honorable Members of the City Council

State of Rhode Island and Providence Plantations

THE CITY OF



PROVIDENCE

I, Paul MacDonald, do solemnly swear that
I will support the Constitution of the United States and of the State
of Rhode Island and the Providence Home Rule Charter and that
I will faithfully discharge the duties of the office of member of the

Convention Center Authority

for a term to expire on June 30, 2003

to the best of my ability.

Paul A. MacDonald

Paul MacDonald

I, Vincent A. Cianci, Jr.

Mayor of Providence

do hereby certify that on the 18th day of November, A.D. 19 99,

I did administer unto Paul MacDonald

duly appointed to the office of the

Convention Center Authority

the above subscribed oath.

Vincent A. Cianci, Jr.

VINCENT A. CIANCI, JR.
Mayor of Providence