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September 29, 2015

ESTABLISHED 1911

D. LOGAN GIFFIN
(1890-1980)

MONTGOMERY S. WINNING
(1892-1966)

C. TERRY LINDNER
(1903-1987)

ALFRED F. NEWKIRK
(1904-1980)

JAMES M. WINNING
(1921-2013)

Mr. Michael McCreery
United Counties Council of Illinois
217 East Monroe Street, Suite 101
Springfield, IL 62701

Re: County Board's authority to establish courthouse hours and enforce such hours

Dear Mike:

Issue

What authority does the county board have in enforcing the hours a particular elected official's office is open, specifically the county assessor?

Analysis

Per statute, a court order is required to set the hours and days the clerks of the Circuit Courts shall have office hours in their offices at the courthouse of their respective counties.¹ The county board has the power to "authorize the closing on Saturday mornings of all offices of all county officers at the county seat of each county, and to otherwise regulate and fix the days and the hours of opening and closing of such offices, except when the days and the hours of opening and closing of the office of any county officer are otherwise fixed by law; but the power herein conferred shall not apply to the office of State's Attorney and the offices of judges and clerks of courts and, in counties of 500,000 or more population, the offices of county clerk."² In accordance with an informal Attorney General opinion issued in 1991, the county board does not have the authority to control the manner the county assessor's office is run on a day-to-day basis, nor does it have the authority to set a detailed job description for the county assessor and his/her employees; however, the Board does have the authority to act if it is decided that the county assessor's "non-attendance during office hours rises to the level of misfeasance or nonfeasance."³

¹ 705 ILCS 105/6

² 55 ILCS 5/5-1005

³ Informal Op. Atty. Gen. I-91-021

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Conclusion

The county board has the authority to set the hours for certain offices within the courthouse, but not all. The county board cannot establish the hours for the circuit clerk, the State's Attorney, or offices of judges per the above-mentioned statutes. However, the above-mentioned statute does give the county board authority to set hours for offices outside of those mentioned that do not have hours fixed by law. Therefore, the county board has the authority to set the hours for offices EXCEPT the State's Attorney, circuit clerk, offices of judges, and those offices which have hours fixed by law. The county board does not have the authority to enforce the set courthouse hours on the county assessor unless the county assessor's absence during office hours rises to the level of failing to perform the acts the county assessor is required to perform by law.

Sincerely,

GIFFIN, WINNING, COHEN & BODEWES, P.C.


Herman G. Bodewes


Abby L. Allgire

HGB/ALA:pa

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Disclaimer: This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State's Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State's Attorney.