



The Times

Defining moment for city residency

Lawyer says Santiago not entitled to waiver

Wednesday, November 07, 2007

BY EVA LOAYZA

TRENTON -- A former attorney for the city claims the mayor has no right under the city's residency ordinance to give Police Director Joseph Santiago a pass on living in the city.

George Dougherty, who was city assistant attorney from 1971 to 1975, and city attorney from 1975 to 1990, said yesterday that under the city's residency ordinance, the mayor can only grant a waiver if a position is vacant and not likely to be filled as long as the residency requirements are in effect, and if the continued vacancy is a threat to public safety.

"There is nothing in the ordinance that allows the mayor to bend it or adjust it," said Dougherty, who has represented a number of city employees who have been fired over non-residency in suits against the city.

Mayor Douglas H. Palmer has said Santiago was granted a waiver from the residency requirement due to a personal situation he would not discuss. Palmer said the city was within its rights when it granted the exemption.

Palmer said he expects Santiago to maintain residency when the personal matter is resolved.

City Spokesman Kent Ashworth said yesterday, "George Dougherty is an attorney ... and we do not deal with legal matters through the newspapers."

Santiago said Dougherty doesn't understand what the problems are that led to his request for an exemption, and he doesn't have to justify anything to anyone but the mayor.

"I will not legitimize what they have to say," said Santiago, referring to Dougherty and former mayoral candidate Frank Weeden, who has filed a complaint asking the city to look into Santiago's residency status and whether it complied with the residency ordinance.

Dougherty said the conditions for a waiver were not present when Santiago joined the department in 2003.

He said former Deputy Police Director Abe Hemsey was serving as acting police director at the time, and therefore there was no sense of urgency to fill the position with a permanent director. He said there was never a claim by the administration that it was unable to recruit someone capable of doing the job and willing to live in the city.

Dougherty said he could not recall the administration ever saying it was having trouble finding someone willing to live in the city for the police director position. Since there was no certification of the need to waive or grant a grace period when the job was filled, "there is no power to exempt or waive or adjust," wrote Dougherty in an e-mail.

When asked in January 2006 for a copy of any documents or other papers concerning Santiago having a waiver from living in the city, City Clerk Anthony Conti, custodian of city records, said his office had none.

And Dougherty argued that waivers can't be granted once a person is already in a position.

Dougherty said the different residencies held in the city by Santiago, "don't constitute residency under any circumstances." At various times, Santiago has reportedly lived in the Trenton Marriott hotel, the apartment

complex known as the Old Cigar Factory and out of a room he rented from Hemsey. The residency ordinance spells out that city employees have to be "bona fide residents" and then defines "bona fide resident" as "a person having a permanent domicile within the city."

Dougherty pointed to a copy of a letter written in 1995 by then-city business administrator Gwendolyn Long and posted on the Web site captsleepy.com. The letter states all city employees must fill out an employee residency certification form certifying they live here. The form lists a number of criteria to distinguish a "bona fide" place of residence, including where the person is registered to vote and where the various members of his or her family live.

It is generally known that Santiago lives in a home in Stirling, a town in Long Hill Township, Morris County. Property records from the Morris County clerk show Santiago and his wife, Denise Santiago, bought the home in February 2002 for \$678,000. In October 2002, when he resigned from the state police, Santiago allowed a Star-Ledger reporter and photographer into his home to document him signing and faxing his resignation letter to then-Gov. James McGreevey.

Dougherty said if the ordinance is not enforced by officials in City Hall, the public has the right to pursue it.

Dougherty said he has been approached by someone interested in challenging the city over this matter. He said he has told this person he is willing to provide the legal services pro bono.

"As a resident, I believe in residency," said Dougherty.

Contact Eva Loayza at eloayza@njtimes.com or (609) 989-5717.

© 2007 The Times of Trenton

© 2007 NJ.com All Rights Reserved.