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CONSTITUTION OF VIRGINIA: LOCAL GOVERNMENT (COUNTY AND CITY OFFICERS).

TAXATION: LOCAL OFFICERS – COMMISSIONERS OF THE REVENUE.

COUNTIES, CITIES AND TOWNS: LOCAL CONSTITUTIONAL OFFICERS – COMMISSIONER OF THE REVENUE.

Commissioner of revenue has no authority to contract with private statistical company to prepare, during normal working hours, report regarding data on new construction and buildings.

The Honorable Randy N. Williams

Commissioner of the Revenue for Russell County

May 16, 2001

You ask whether a commissioner of the revenue may prepare, for a set fee, a report regarding data on new construction and buildings for a private statistical company that collects such data. You relate that the information collected for such report is obtained from county building permits. You also relate that such report is prepared on official county time.¹

The commissioner of the revenue is a constitutional officer whose duties "shall be prescribed by general law or special act"² of the General Assembly. The duties of commissioners of the revenue are set out specifically in Article 1, Chapter 31 of Title 58.1, §§ 58.1-3100 through 58.1-3122.2 of the *Code of Virginia*, as well as generally in Titles 15.2 and 58.1.³

Article VII, § 4 of the Constitution of Virginia directs the General Assembly to assign duties by general or special law to constitutional officers, including the commissioner of the revenue.⁴ With respect to county building permits, the commissioner of the revenue may review such permits and obtain information from such permits as may be helpful to him for local tax assessment purposes.⁵ I am, however, unaware of any statutory provision authorizing a commissioner of the revenue to prepare reports such as you describe for a private company for a set fee.⁶

Accordingly, I must conclude that a commissioner of the revenue has no authority to contract with a private company to prepare such a report for a private statistical company during the normal workday hours.

¹*Compare* 1971-1972 Op. Va. Att'y Gen. 73 (concluding that commissioner of revenue may be employed by local financial institution, on set fee basis, to perform real estate appraisals, provided supplemental employment does not interfere with proper performance of his duties).

²Va. Const. art. VII, § 4.

³2000 Op. Va. Att'y Gen. 204, 205.

⁴1987-1988 Op. Va. Att'y Gen. 517, 518.

⁵1981-1982 Op. Va. Att'y Gen. 404, 405 (noting that only building official authorized under Uniform Statewide Building Code may require building permits).

⁶*Compare* 1974-1975 Op. Va. Att'y Gen. 538 (concluding that county treasurer may serve as billing and collection agent for public service authority).

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