Stone Street Partners, LLC v. City of Chicago Department of Administrative Hearings, 2014 IL App (1st) 123654, Decided March 31, 2014.*

An unusual set of events led an Appellate Court to rule that administrative agencies do not have the ability to determine matters regarding the practice of law. Specifically, the First District of the Illinois Appellate Court invalidated an administrative rule allowing corporations to be "represented" at a particular agency by non-attorneys.

Nearly 14 years ago, a city administrative hearing officer fined Stone Street, the corporation that owned the offending building, for building code violations. Stone Street never paid the fine. The City recorded a lien against the offending parcel of real property.

Over 11 years later, Stone Street challenged the fine, contending that it was never notified of the building code proceeding. After Stone Street unsuccessfully attempted to vacate the fine at the administrative level, it filed a complaint in the circuit court seeking administrative review of the decision to levy the fine, equitable relief and money damages. The circuit court dismissed this complaint in full. In reversing almost all of the circuit court's dismissal, the Appellate Court determined that a general appearance on behalf of Stone Street at the building code violation hearing by a non-attorney did not confer jurisdiction upon the City's Department of Administrative Hearings when the City also failed to (initially) serve Stone Street's registered agent with notice of the violations. The Appellate Court found that the City's failure to serve Stone Street's registered agent violated due process and the City's own rules.

In 1999, the City had initiated the building code proceeding by sending notice of the building code violations to the offending property, despite the fact that the City's rules required it to send such notice to the property owner or its registered agent. At the administrative hearing regarding the building code violations, a person named Keith Johnson, a non-lawyer, "represented" Stone Street. Mr. Johnson was the caretaker for one of the Stone Street corporate officers, who was very ill. Mr. Johnson signed an appearance form and he presented evidence on Stone Street's behalf. Despite Mr. Johnson's efforts, the administrative hearing officer ruled against Stone Street, fining it $1,050.

In (effectively) vacating the administrative hearing officer's determination, the Appellate Court commented that appearance and active participation in an administrative proceeding constitutes the practice of law. However, it stated, as early as Lord Coke's time, (1552-1634) a corporation was required to be represented by an attorney in legal proceedings, citing *Downtown Disposal Services, Inc. v. City of Chicago,* 2012 IL 112040. The reason for this rule, the Appellate Court continued, is that the views or interests of a corporate principal and those of the corporation do not always mesh.

The City contended, essentially, that its rule allowing corporations to be represented by non-attorneys was "nothing new," citing several statutes and regulations allowing non-attorneys to "represent" corporations. The Appellate Court rejected this argument, commenting that, while such a grant of authority may be efficacious, "it clearly usurps the authority of our supreme court to administer the practice of law."

*The text of this opinion could change within the following three weeks or so from that date if the Appellate Court were to grant a Petition for Rehearing.