EDWARD BATESON ET AL. *v.* GARY WEDDLE
(SC 18720)

Rogers, C. J., and Norcott, Palmer, Zarella, McLachlan, Eveleigh and Harper, Js.*

Argued April 27—officially released August 14, 2012

David A. Slossberg, with whom, on the brief, was *Russell A. Green*, for the appellant (intervening defendant conservation commission of the town of Fairfield).

Charles W. Fleischmann, for the appellant (defendant).

George R. Bisacca, with whom, on the brief, was *Edward F. Kunin*, for the appellees (plaintiffs).

Opinion

McLACHLAN, J. In this appeal, we review the procedural and substantive requirements for maintaining a quo warranto action pursuant to General Statutes § 52-491,[1] which challenges an alleged unlawful usurpation of "the exercise of any office, franchise or jurisdiction . . . ." The defendant, Gary Weddle, and the intervening defendant, the conservation commission of the town of Fairfield (commission),[2] appeal[3] from the trial court's decision granting the writ of quo warranto filed by the plaintiffs, certain concerned taxpayers of the town of Fairfield,[4] and ordering Weddle's removal from the office of wetlands compliance officer. The defendants advance the following arguments: (1) the trial court lacked subject matter jurisdiction to consider the plaintiffs' claim because the plaintiffs had failed to establish standing; (2) the trial court improperly determined that Weddle's appointment violated the Fairfield charter (town charter) by usurping the office of the Fairfield conservation director; and (3) the trial court improperly concluded, in the alternative, that Weddle's appointment was invalid because the commission lacked the authority to appoint multiple individuals to the office in question. We disagree with the defendants, and, accordingly, affirm the decision of the trial court.

The record discloses the following facts and procedural history, either as found by the trial court or undisputed by the parties. This quo warranto action concerns the construction of a thirty-five acre train station and commuter parking project known as the Fairfield metro center project. Pursuant to General Statutes § 22a-42[5] and the town charter, the commission is authorized to act as an inland wetlands agency. In carrying out its duty to protect and define the inland wetlands and watercourses, the commission is also authorized to "adopt, amend and promulgate such regulations as are necessary." Fairfield Charter § 10.3.C (2). Accordingly, the commission adopted the Fairfield inland wetlands and watercourses regulations (regulations) on October 3, 1974.

In the course of developing the metro center project, the developer was required to comply with these regulations. In November, 2007, the developers expressed their concern to the town first selectman that certain members of the commission, particularly conservation director Thomas Steinke, were acting unreasonably in their oversight of the developers' compliance with the regulations. In response, on March 27, 2008, the commission, acting as the inland wetlands agency, appointed Weddle to the office of wetlands compliance officer for the metro center project. Additionally, in its appointment of Weddle, the commission specified that Weddle should report directly to it rather than being subject to the supervision of the conservation director, thereby eliminating the conservation director's involve-

ment with the metro center project.

On April 28, 2009, the plaintiffs brought the present action in quo warranto, pursuant to § 52-491, claiming that the appointment of Weddle as the wetlands compliance officer violated the town charter because Weddle's position was not subject to the general supervision of the conservation director, as required by § 10.3.D[6] of the town charter.[7] The matter proceeded to a trial to the court on March 24, 2010, and March 25, 2010. Upon the conclusion of trial, the court first concluded that it had subject matter jurisdiction to consider the quo warranto action. In particular, the court determined that the plaintiffs' allegation that Weddle's appointment was improper constituted a proper subject for a quo warranto action. In turn, the court held that the plaintiffs had standing to pursue the present action on the ground that the plaintiffs, as taxpayers, had demonstrated sufficient interest to establish standing in a quo warranto action.

With respect to the merits of the plaintiffs' claim that Weddle's appointment was unlawful, the court found in favor of the plaintiffs on two bases. Preliminarily, because the title challenged in a quo warranto proceeding must be a public office, the court found that the position held by Weddle was indeed a public office. The court thereupon reviewed the town charter provisions that authorized the appointment of a wetlands compliance officer and concluded that the commission did not have the authority to appoint Weddle to that position with the condition that he not be subject to the general supervision of the conservation director. Additionally, the court determined that the appointment of Weddle to this office was "illegal, null and void" because the town charter and regulations provided for one wetlands compliance officer only, and the position had been already filled. Accordingly, the trial court granted the writ of quo warranto and ordered Weddle to be removed from the wetlands compliance officer position. This appeal followed.

The defendants claim that the trial court improperly concluded that it had subject matter jurisdiction to consider the present action. Specifically, the defendants contend that the plaintiffs' status as taxpayers was insufficient to establish standing; instead, they argue that the plaintiffs were required to present evidence of individual harm, which they did not do.[8] Additionally, even if the trial court had subject matter jurisdiction, the defendants argue that the court improperly determined that the commission violated the town charter in appointing Weddle to the wetlands compliance officer position. Accordingly, the defendants urge this court to reverse the judgment of the trial court. We disagree.

I

We begin with the defendants' claim that the plaintiffs

lacked standing to commence the present quo warranto proceeding because it presents a question as to the trial court's subject matter jurisdiction. See *Canty* v. *Otto*, 304 Conn. 546, 557, 41 A.3d 280 (2012) ("[w]here a party is found to lack standing, the court is consequently without subject matter jurisdiction to determine the cause" [internal quotation marks omitted]). "Once the question of lack of jurisdiction of a court is raised . . . [t]he court must fully resolve it before proceeding further with the case." (Internal quotation marks omitted.) *St. Paul Travelers Cos.* v. *Kuehl*, 299 Conn. 800, 816, 12 A.3d 852 (2011). Additionally, "[w]e have long held that because [a] determination regarding a trial court's subject matter jurisdiction is a question of law, our review is plenary." (Internal quotation marks omitted.) *Canty* v. *Otto*, supra, 557.

"Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless he [or she] has, in an individual or representative capacity, some real interest in the cause of action, or a legal or equitable right, title or interest in the subject matter of the controversy." (Internal quotation marks omitted.) *AvalonBay Communities, Inc.* v. *Orange*, 256 Conn. 557, 567–68, 775 A.2d 284 (2001). In actions in quo warranto, this court has held that a plaintiff's status as a taxpayer constitutes a justiciable interest sufficient to establish standing. *State ex rel. Waterbury* v. *Martin*, 46 Conn. 479, 482 (1878). We have explained, "[a]s [a taxpayer, a plaintiff] is interested in having the duties annexed to the several public offices recognized by the city charter performed by persons legally elected thereto, and is entitled upon this proceeding to a determination as to the right of the respondent [public official] to exercise the office which he has assumed, although no other person now claims it." Id.; see also *Meyer* v. *Collins*, 49 Conn. App. 831, 834 n.6, 717 A.2d 771 (1998) (stating taxpayer of town in which charter authorizes office has standing to proceed in quo warranto action); *Carleton* v. *Civil Service Commission*, 10 Conn. App. 209, 216, 522 A.2d 825 (1987) ("[a] taxpayer qualifies for standing [in a quo warranto proceeding] because as such he is interested in having the duties annexed to the several public offices recognized by the city charter performed by persons legally elected or appointed thereto whether or not another person claims the office").

Since this court decided *State ex rel. Waterbury* v. *Martin*, supra, 46 Conn. 479, we have relied implicitly on the rule established therein that a plaintiff's status as a taxpayer is sufficient to establish standing to pursue a quo warranto action. See, e.g., *Cheshire* v. *McKenney*, 182 Conn. 253, 254–55, 438 A.2d 88 (1980) (quo warranto action filed, in part, by plaintiffs as councilmen, residents and taxpayers); *State ex rel. Barnard* v. *Ambrogio*, 162 Conn. 491, 493, 294 A.2d 529 (1972) (quo warranto action brought by plaintiff as finance director

and taxpayer); *State ex rel. Sloane* v. *Reidy*, 152 Conn. 419, 420, 209 A.2d 674 (1965) (quo warranto action brought by plaintiffs as residents and taxpayers); *Civil Service Commission* v. *Pekrul*, 41 Conn. Sup. 302, 303, 308, 571 A.2d 715 (concluding that plaintiff as city resident and taxpayer had standing to bring quo warranto action), aff'd, 221 Conn. 12, 14, 601 A.2d 538 (1992) (affirming trial court decision "in all of its *procedural* and substantive ramifications" [emphasis added]). Even though standing was not an issue expressly before us in these cases, in reaching the substantive issue on appeal, this court necessarily presumed that the plaintiffs, as taxpayers, had alleged sufficient grounds for standing, as standing implicates the trial court's subject matter jurisdiction. See *Connecticut Podiatric Medical Assn.* v. *Health Net of Connecticut, Inc.*, 302 Conn. 464, 469, 28 A.3d 958 (2011) ("[i]t is axiomatic that a party must have standing to assert a claim in order for the court to have subject matter jurisdiction over the claim" [internal quotation marks omitted]); *State* v. *Tabone*, 301 Conn. 708, 714, 23 A.3d 689 (2011) ("The subject matter jurisdiction requirement may not be waived by any party, and also may be raised by a party, or by the court sua sponte, at any stage of the proceedings, including on appeal. . . . [O]nce raised, [the question of subject matter jurisdiction] must be answered before we can address the other issues raised." [Citation omitted; internal quotation marks omitted.]).

Weddle urges this court to overrule our decision on taxpayer standing in quo warranto actions as set forth in *State ex rel. Waterbury* v. *Martin*, supra, 46 Conn. 482. Specifically, he suggests that *Martin* is based on a faulty premise, namely, that a taxpayer has sufficient interest to pursue an action in quo warranto regardless of whether that taxpayer is a resident or elector or whether the taxpayer has suffered any injury. Additionally, he claims that the rule set forth in *Martin* on taxpayer standing was not based on any policy justification and that *Martin* conflicts with the more stringent showing required to establish standing in other contexts. Instead, he urges us to require the same showing of individual harm to establish taxpayer standing in quo warranto cases that is required to pursue an action seeking declaratory or injunctive relief.

We begin by observing that "[t]his court repeatedly has acknowledged that because the doctrine of [s]tare decisis, although not an end in itself, serves the important function of preserving stability and certainty in the law . . . a court should not overrule its earlier decisions unless the most cogent reasons and inescapable logic require it. . . . Stare decisis is justified because it allows for predictability in the ordering of conduct, it promotes the necessary perception that the law is relatively unchanging, it saves resources and it promotes judicial efficiency. . . . It is the most important application of a theory of decisionmaking

consistency in our legal culture and . . . is an obvious manifestation of the notion that decisionmaking consistency itself has normative value." (Citations omitted; internal quotation marks omitted.) *State* v. *Lockhart*, 298 Conn. 537, 549, 4 A.3d 1176 (2010). "We, therefore, will respect our prior decisions unless strong considerations to the contrary require us to reexamine them . . . . For example, we may overturn a prior holding if we find it to be clearly wrong . . . ." (Citations omitted; internal quotation marks omitted.) *Potvin* v. *Lincoln Service & Equipment Co.*, 298 Conn. 620, 650, 6 A.3d 60 (2010).

We recognize that the requisite showing to establish taxpayer standing in the context of injunctive or declaratory relief is greater than the showing required to proceed in a quo warranto action under *Martin*. See *West Farms Mall, LLC* v. *West Hartford*, 279 Conn. 1, 13, 901 A.2d 649 (2006) ("The plaintiff's status as a taxpayer does not automatically give [it] standing to challenge alleged improprieties in the conduct of the defendant town. . . . The plaintiff must also allege and demonstrate that the allegedly improper municipal conduct cause[d] [it] to suffer some pecuniary or other great injury. . . . It is not enough for the plaintiff to show that [its] tax dollars have contributed to the challenged project . . . . [T]he plaintiff must prove that the project has directly or indirectly increased [its] taxes . . . or, in some other fashion, caused [it] irreparable injury in [its] capacity as a taxpayer." [Internal quotation marks omitted.]). Nevertheless, we disagree with Weddle's contentions that the different standard governing standing for purposes of injunctive relief generally compels the conclusion that a taxpayer has insufficient interest to justify a quo warranto proceeding, that the standard articulated in *Martin* has no underlying policy justification, and that taxpayer standing in a quo warranto action must be modified to conform with the taxpayer standing requirements in actions for injunctive and declaratory relief.

The broad conferral of standing in *Martin* is justified first by the purpose of quo warranto actions. Historically, the writ of quo warranto originated as a "device to require [Norman kings'] barons to justify their claims to power or to abandon them." 2 E. Stephenson, Connecticut Civil Procedure (3d Ed. 2002) § 223 (a). Today, unless otherwise provided by statute, a quo warranto action "is the exclusive method of trying the title to an office . . . ." *Scully* v. *Westport*, 145 Conn. 648, 652, 145 A.2d 742 (1958). It "lie[s] to prevent the usurpation of a public office or franchise"; *State ex rel. Stage* v. *Mackie*, 82 Conn. 398, 400, 74 A. 759 (1909); by placing the burden on the defendant to prove lawful entitlement to a particular office; *State ex rel. Gaski* v. *Basile*, 174 Conn. 36, 38, 381 A.2d 547 (1977); and "oust[ing] individuals illegally occupying public offices . . . ." *New Haven Firebird Society* v. *Board of Fire Commission-*

ers, 219 Conn. 432, 438, 593 A.2d 1383 (1991). The purpose of the proceeding, therefore, is "to test the actual right to the office and not merely a use under color of right." (Internal quotation marks omitted.) *Cheshire* v. *McKenney*, supra, 182 Conn. 257. In other words, in a quo warranto proceeding, a plaintiff may contest an individual's right to hold an office; however, a challenge to the manner in which a lawful incumbent is exercising the powers, privileges and duties pertaining to an office exceeds the scope of such an action. Thus, the writ of quo warranto developed and has continued as a limited and "extraordinary remedy"; *State ex rel. Stage* v. *Mackie*, supra, 401; to test *who* the lawful public official is.

In contrast, actions for declaratory or injunctive relief do not challenge who the lawful officeholder is, but rather *how* the individual lawfully in office performs his or her official duties. Once an individual is lawfully clothed in the mantle of an office, he or she is necessarily vested with a degree of discretion in exercising the rights and responsibilities of the office and should be free from inordinate interference, both from the courts and the public. See *McAdam* v. *Sheldon*, 153 Conn. 278, 281, 216 A.2d 193 (1965) ("When municipal authorities are acting within the limits of the formal powers conferred upon them and in due form of law, the right of courts to supervise, review or restrain them is necessarily exceedingly limited. . . . Mere differences in opinion among municipal officers or members of the municipal electorate are never a sufficient ground for judicial interference." [Citations omitted; internal quotation marks omitted.]). Due to the greater discretion in *how* one conducts the duties of an office as opposed to *who* exercises such discretion, a higher threshold, or greater showing of interest, is necessary to justify a taxpayer's challenge to a lawful incumbent's performance, thereby ensuring that "parties are not vexed by suits brought to vindicate nonjusticiable interests . . . ." (Internal quotation marks omitted.) *West Farms Mall, LLC* v. *West Hartford*, supra, 279 Conn. 12; id. ("[standing] is a practical concept designed to ensure that courts and parties are not vexed by suits brought to vindicate nonjusticiable interests and that judicial decisions which may affect the rights of others are forged in hot controversy, with each view fairly and vigorously represented" [internal quotation marks omitted]).[9]

We therefore conclude that Weddle's arguments in favor of overruling *Martin* fail to establish that *Martin* was " 'clearly wrong . . . .' " *Potvin* v. *Lincoln Service & Equipment Co.*, supra, 298 Conn. 650. Accordingly, we adhere to the broader and more lenient threshold set forth in *Martin* to establish standing as an exception limited to the particular context of quo warranto proceedings. Thus, to determine whether the plaintiffs had standing to pursue the present action, we

must determine (1) whether the plaintiffs' complaint does, indeed, sound in quo warranto, and (2) whether they demonstrated sufficient interest to establish standing to pursue the present action.

In the present action, the complaint stated that the commission's appointment of Weddle to the position of wetlands compliance officer "was illegal, null and void in that it failed to comply with the [town] [c]harter's mandatory requirement that the [w]etland [c]ompliance [o]fficer shall be subject to the general supervision of the [c]onservation [d]irector as set forth in [§] 10.3.D [of the town charter]." The plaintiffs thus allege that Weddle's appointment was unlawful because the office was exempt from the supervision of the conservation director. Their claim focuses on the terms of the appointment itself; the plaintiffs do not challenge any particular act performed by Weddle or any instance in which Weddle did or did not report to the conservation director. Because the plaintiffs contest Weddle's right to the wetlands compliance officer position as defined by the commission, we conclude that the complaint properly sounds in quo warranto. Finally, because the trial court found that the plaintiffs were taxpayers of Fairfield, and the defendants have not challenged this finding, we conclude that the plaintiffs demonstrated sufficient interest to establish standing to pursue the present quo warranto action.

II

Turning to the substantive issue on appeal, we consider whether the trial court properly granted the plaintiffs' writ of quo warranto on the basis that Weddle's appointment to the wetlands compliance officer position violated the town charter by usurping the office of the conservation director. The determination of this issue presents a question of law over which our review is plenary. *Stewart* v. *Watertown*, 303 Conn. 699, 710, 38 A.3d 72 (2012). Because our resolution of this issue requires us to construe provisions of the town charter, we apply principles of statutory interpretation. See, e.g., *Bridgeman* v. *Derby*, 104 Conn. 1, 8, 132 A. 25 (1926) ("[a]s we seek to interpret this provision of [the applicable] charter, it will be well to keep before us some of the fundamental principles of statutory construction").

Furthermore, with respect to the construction of the provisions in a municipal charter, "[i]t is well established that, as a creation of the state, a municipality [whether acting itself or through its planning and zoning commission] has no inherent powers of its own . . . and that [it] possesses only such rights and powers that have been granted *expressly* to it by the state . . . ." (Emphasis in original; internal quotation marks omitted.) *Buttermilk Farms, LLC* v. *Planning & Zoning Commission*, 292 Conn. 317, 326, 973 A.2d 64 (2009). Therefore, "[w]here a charter specifies a mode of appointment, strict compliance is required." *State ex*

rel. Gaski v. *Basile*, supra, 174 Conn. 39. More specifically, "[i]f the charter points out a particular way in which any act is to be done or in which an officer is to be elected, then, unless these forms are pursued in the doing of any act or in the electing of the officer, the act or the election is not lawful." *State ex rel. Southey* v. *Lasher*, 71 Conn. 540, 546, 42 A. 636 (1899); see also *State ex rel. Barlow* v. *Kaminsky*, 144 Conn. 612, 620, 136 A.2d 792 (1957) ("A statute which provides that a thing shall be done in a certain way carries with it an implied prohibition against doing that thing in any other way. An enumeration of powers in a statute is uniformly held to forbid the things not enumerated.").

We begin with the language of the provisions of the town charter and regulations relating to the appointment of the wetlands compliance officer. Section 10.3 of the town charter addresses the commission's composition, role and responsibilities. Specifically, § 10.3.B delineates the commission's powers and duties as a conservation commission, and § 10.3.C catalogues the commission's powers as an inland wetlands agency.[10] To satisfy the responsibilities set forth in these two provisions, § 10.3.D of the town charter provides in relevant part that "[t]he [c]ommission shall have the power to engage such employees or consultants as it requires to carry out its duties, including a wetlands administrator and assistants who, subject to the general supervision of the [d]irector, shall enforce all laws, ordinances and regulations relating to matters over which it has jurisdiction and who shall have such other duties as the [c]ommission or the [d]irector may prescribe." The independent clause of this provision—"[t]he [c]ommission shall have the power to engage such employees or consultants as it requires to carry out its duties"—authorizes the commission to appoint individuals to assist it in carrying out its duties. The following dependent clause—"who, subject to the general supervision of the [d]irector, shall enforce all laws, ordinances and regulations relating to matters over which it has jurisdiction and who shall have such other duties as the [c]ommission or the [d]irector may prescribe"—sets forth two criteria for appointments under § 10.3.D. It contemplates that appointed individuals subject to this clause be given the responsibility to (1) enforce relevant laws, ordinances and regulations, subject to the supervision of the conservation director, and (2) perform such other duties as charged by the commission or conservation director. Because, as stated, strict compliance is required when "a charter specifies a mode of appointment"; *State ex rel. Gaski* v. *Basile*, supra, 174 Conn. 39; the commission must make any appointments to which the dependent clause applies in accordance with both criteria enumerated therein. The question remains, however, whether this clause applies to all employees and consultants engaged pursuant to § 10.3.D, or whether it refers solely to the "wetlands administrator

and assistants," referenced immediately before the clause.

In prior cases, we have recognized that, "[a]lthough punctuation is not generally considered an immutable aspect of a legislative enactment . . . it can be a useful tool for discerning legislative intent." (Citations omitted; internal quotation marks omitted.) *State* v. *Rodriguez-Roman*, 297 Conn. 66, 76, 3 A.3d 783 (2010). The phrase "including a wetlands administrator and assistants" is set apart from the independent clause by a comma and is the direct antecedent of the dependent clause at issue. Strictly applying rules of English grammar to the sentence structure of § 10.3.D, the dependent clause modifies only the wetlands administrator and assistants positions. Nevertheless, we recognize that "[w]here the sense of the entire act requires that a qualifying word or phrase apply to several preceding or even succeeding sections, the qualifying word or phrase will not be restricted to its immediate antecedent." Id., 76 n.7.

Upon consideration of § 10.3.D of the town charter as a whole, we conclude that a construction limiting the application of the dependent clause to the last antecedent would be unreasonable. Specifically, § 10.3.D expressly empowers the commission to employ a staff and to delegate duties to such staff in furtherance of its responsibility to protect and define the inland wetlands and watercourses. Interpreting this provision narrowly to mean that the dependent clause applies solely to the last antecedent would lead to the conclusion that any individual appointed by the commission pursuant to § 10.3.D of the town charter other than the wetlands administrator and assistants is not required to "enforce all laws, ordinances and regulations relating to matters over which [the commission] has jurisdiction," and to perform such other duties as directed by the commission or director. We decline to adopt such a strained and unduly restrictive interpretation of this charter provision. See *State* v. *Scott*, 256 Conn. 517, 538, 779 A.2d 702 (2001) ("[c]onstruction should not exclude common sense so that absurdity results and the evident design of the legislature is frustrated" [internal quotation marks omitted]).

Rather, we view the two criteria enumerated in the dependent clause of § 10.3.D of the town charter as specifying the extent of the responsibilities that the commission may confer on any individual appointed to assist it in carrying out its own functions. We therefore conclude that the dependent clause was intended to limit the entire content of § 10.3.D, not solely the portion specifying the appointment of a wetlands administrator and assistants. Consequently, because the dependent clause applies to all appointments made pursuant to § 10.3.D, the commission may appoint individuals thereunder only if the commission empowers such individu-

als to (1) enforce the laws, ordinances and regulations, *subject to the supervision of the conservation director*, and (2) perform such other duties as charged by the commission or conservation director. In turn, the failure to comply with this charter provision results in an unlawful appointment.

The defendants assert that § 9.25 of the town charter compels a contrary interpretation. Section 9.25 of the town charter provides in relevant part that "[t]he [c]onservation [d]irector shall have the duties prescribed by the [c]onservation [c]ommission and the [f]irst [s]electman" and that "[t]he [c]onservation [d]irector shall report to the [f]irst [s]electman on matters of administration and operation and to the [c]onservation [c]ommission on matters of policy." The defendants argue that, because § 9.25 bestows broad authority on the commission over the conservation director, the commission may appoint a wetlands compliance officer with the condition that that officer report directly to it, as opposed to the conservation director. We are not persuaded. "Just as the legislature is presumed to enact legislation that renders the body of the law coherent and consistent, rather than contradictory and inconsistent"; *Fahy* v. *Fahy*, 227 Conn. 505, 513, 630 A.2d 1328 (1993); we likewise read related charter provisions harmoniously. We fail to see how the fact that the town charter grants the commission power over the conservation director is incompatible with the town charter also establishing a mandatory hierarchical structure in which the commission supervises the conservation director, and the conservation director, in turn, supervises all individuals appointed under § 10.3.D of the town charter. Consistent with § 9.25, this structure furnishes the commission with ultimate authority over both the conservation director and (via the conservation director) anyone appointed under § 10.3.D. In effect, it merely delineates an internal system of delegation. As such, the commission's overall authority remains unaffected by the requirement that an official appointed under § 10.3.D be subject to the general supervision of the conservation director.[11]

The defendants also contend that § 13.1 of the regulations conflicts with our interpretation of § 10.3.D of the town charter. Section 13.1 of the Fairfield inland wetlands and watercourses regulations provides: "The [commission][12] may appoint a designated agent or agents to act in its behalf with the authority to inspect property except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations." Section 2.1.13 of the Fairfield inland wetlands and watercourses regulations, in turn, defines " '[d]esignated agent' " in relevant part as "an individual(s) designated by the [commission] to carry out its functions and purposes. Designated agents shall include, but not be limited to, the [c]onservation

[d]irector, [c]onservation [a]dministrator, and [w]etlands [c]ompliance [o]fficer. . . .'' The defendants argue that the failure to specify that an agent appointed under § 13.1 of the regulations is subject to the general supervision of the conservation director indicates that the conservation director does not have supervisory authority over such agents. In essence, the defendants appear to suggest that, if agents appointed under § 13.1 are not required to be supervised by the conservation director, the clause mandating supervision by the conservation director in § 10.3.D must refer solely to the wetlands administrator and assistants, or § 13.1 must establish an exception to the supervision requirement for agents appointed thereunder, including the wetlands compliance officer.

We disagree that the failure to reiterate the direction contained in § 10.3.D of the town charter—that is, that the conservation director supervise all individuals appointed to assist the commission in carrying out its responsibilities—evinces an intent to exempt agents to which § 13.1 of the regulations applies from this requirement. Rather, we believe that the specific instruction set forth in § 13.1 can be given effect without compromising the general mandate of § 10.3.D. In other words, we view the commission's authority to appoint agents such as a wetlands compliance officer to carry out the functions detailed in § 13.1 to comprise a subcategory of the commission's general authority ''to engage such employees or consultants as it requires to carry out its duties . . . .'' Fairfield Charter § 10.3.D. Consequently, an agent appointed to inspect property, to issue notices of violation or cease and desist orders and to carry out other actions to enforce the regulations, as permitted by § 13.1, must also (1) enforce relevant laws, ordinances and regulations, subject to the supervision of the conservation director, and (2) perform such other duties as charged by the commission or conservation director, as required by § 10.3.D.

In the present action, the commission appointed Weddle to the office of wetlands compliance officer, which, as previously discussed, is defined in § 2.1.13 of the regulations as a '' '[d]esignated agent' '' of the commission. The trial court found that, as the wetlands compliance officer, Weddle's position was ''invested with the authority to act in behalf of the [commission] to inspect properties and issue notices of violations or cease and desist orders and carry out other acts or investigations necessary to enforcement of the regulations.'' As the wetlands compliance officer was thus charged with assisting the commission in carrying out its duties, this position was subject to the requirements of § 10.3.D of the town charter, including the requirement that the appointed individual ''enforce all laws, ordinances and regulations relating to matters over which [the commission] has jurisdiction'' ''subject to the general supervision of the [conservation] [d]irector. . . .'' Fairfield

Charter § 10.3.D. As the trial court also found, however, the commission appointed Weddle to the wetlands compliance officer position "with the proviso that he would not be under the general supervision of . . . the [c]onservation [d]irector." By ordering Weddle to report directly to the commission, the commission effectively usurped the conservation director's role as the direct supervisor of the wetlands compliance officer.

On the basis of these unchallenged facts, we conclude that the trial court properly determined that the commission appointed Weddle to the office of wetlands compliance officer in a manner that did not comply with the conditions enumerated in § 10.3.D of the town charter. See *State ex rel. Southey* v. *Lasher*, supra, 71 Conn. 546 ("[i]f the charter points out a particular way in which any act is to be done or in which an officer is to be elected, then, unless these forms are pursued in the doing of any act or in the electing of the officer, the act or the election is not lawful"). Specifically, the commission was without power to exempt Weddle from the requirement that individuals appointed under § 10.3.D are entitled to enforce relevant laws, ordinances and regulations *subject to the general supervision of the conservation director*.[13] As such, Weddle has failed to satisfy his burden of proving lawful title to the wetlands compliance officer position.

The judgment is affirmed.

In this opinion the other justices concurred.

* The listing of justices reflects their seniority status on this court as of the date of oral argument.

[1] General Statutes § 52-491 provides: "When any person or corporation usurps the exercise of any office, franchise or jurisdiction, the Superior Court may proceed, on a complaint in the nature of a quo warranto, to punish such person or corporation for such usurpation, according to the course of common law and may proceed therein and render judgment according to the course of the common law."

[2] We refer herein to Weddle and the commission collectively as the defendants, and individually by name when necessary.

[3] The defendants appealed from the trial court's judgment to the Appellate Court, and we transferred the appeal to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1.

[4] The plaintiffs in this action are Edward Bateson, Alexis Harrison, Jeanne Konecny, Philip Meiman, Pamela Ritter, Les Schaffer, Joycelyn Shaw and Jane Talamini.

[5] General Statutes § 22a-42 provides in relevant part: "(c) . . . [E]ach municipality shall establish an inland wetlands agency or authorize an existing board or commission to carry out the provisions of sections 22a-36 to 22a-45, inclusive. . . ."

[6] Section 10.3.D of the Fairfield charter provides: "The [c]omission shall appoint a [d]irector with the approval of the [f]irst [s]electman. The [c]ommission shall have the power to engage such employees or consultants as it requires to carry out its duties, including a wetlands administrator and assistants who, subject to the general supervision of the [d]irector, shall enforce all laws, ordinances and regulations relating to matters over which it has jurisdiction and who shall have such other duties as the [c]ommission or the [d]irector may prescribe."

[7] On January 15, 2008, the first selectman had appointed Weddle to a position as a consultant for the metro center project. The plaintiffs also challenged Weddle's right to hold this position; however, because Weddle has waived any claim of right to that position, the trial court declined to address this issue. The plaintiffs did not object to this decision, and we decline to consider this issue on appeal.

[8] We note that the plaintiffs' complaint alleges that they are citizens, residents and taxpayers of Fairfield.

[9] Although Weddle also argues that it is unreasonable to permit a taxpayer to bring a quo warranto action, but not a resident or elector who does not pay taxes in the community, the plaintiffs in the present case alleged that they were taxpayers as well as "concerned citizens and residents of Fairfield." Accordingly, whether a resident or elector would have standing to pursue an action in quo warranto is not a question that we need to address to resolve the issue presently before us, and we confine our analysis of standing to cases in which the plaintiff is a taxpayer.

[10] Section 10.3.B of the Fairfield charter, entitled "[p]owers and duties (conservation)," provides: "(1) The [c]onservation [c]ommission shall have all of the powers and duties conferred by this [c]harter, by ordinance, and on conservation commissions generally by § 7-131a of [c]hapter 97 of the General Statutes.

"(2) In order to carry out its powers, the [c]onservation [c]ommission shall:

"(a) Conserve, develop, supervise, and regulate natural resources, including water resources and open space land in the [t]own;

"(b) Conduct investigations into the use and possible use of land in the [t]own;

"(c) Keep an index of all open areas, publicly or privately owned, for the purpose of obtaining information on the proper use of such areas;

"(d) Have the ability to recommend to appropriate agencies plans and programs for the development and use of open areas;

"(e) Have the ability, as approved by the [representative town meeting], to acquire land and easements in the name of the [t]own and promulgate rules and regulations, including but not limited to the establishment of reasonable charges for the use of land and easements, for any of its purposes; and

"(f) Have the ability to coordinate the activities of unofficial bodies organized for similar purposes."

Section 10.3.C of the Fairfield charter, entitled "[p]owers and duties (inland wetlands)," provides: "The [c]onservation [c]ommission shall have the powers and duties conferred by this [c]harter, by ordinance, and on inland wetlands and watercourses agencies generally by §§ 22a-42 to 22-44 of [c]hapter 440 of the General Statutes. In particular, the [c]ommission shall:

"(1) Provide for the protection, preservation, maintenance and use of inland wetlands and watercourses, for their conservation, economic, aesthetic, recreational, and other public and private uses and values in order to provide to the citizens of the [t]own an orderly process to balance the need for the economic growth of the [t]own and the use of its land with the need to protect the environment and its natural resources;

"(2) Adopt, amend and promulgate such regulations as are necessary to protect and define the inland wetlands and watercourses;

"(3) Develop a comprehensive program in furtherance of its purposes;

"(4) Advise, consult and cooperate with other agencies of the [t]own, [s]tate and [f]ederal governments;

"(5) Encourage and conduct studies and investigations and disseminate relevant information; and

"(6) Inventory and evaluate the inland wetlands and watercourses in such form as it deems best suited to effect its purposes."

[11] Similarly, because the conservation director remains accountable to the commission, we reject the commission's argument that our interpretation of § 10.3.D of the town charter would provide the conservation director with "unlimited authority" over those appointed pursuant to this charter provision.

[12] Section 2.1.3 of the regulations defines " '[a]gency' " as the Fairfield inland wetlands and watercourses agency, or the commission. We therefore read " '[a]gency' " synonymously with commission.

[13] Because we conclude that the trial court properly granted the plaintiffs' writ of quo warranto on the basis that Weddle's appointment to the wetlands compliance officer position violated the town charter's requirement that such position be subject to the general supervision of the conservation director, we need not consider the trial court's alternative justification that Weddle's appointment was void because the commission did not have authority to appoint more than one wetlands compliance officer.