

***The elected town agent is an attorney. Can the selectboard hire another attorney to represent the town in legal matters or must it always use the town agent?***

The selectboard can hire whomever it wants to represent the town, and is not required to use the elected town agent. The board also does not have to seek the town agent's consent prior to hiring another attorney, nor does the town agent have to sign-off or approve any legal actions taken by other counsel.

Although the statute provides that an agent to prosecute and defend suits shall be elected, no statute requires that the agent must also be an attorney, nor does it give the agent any independent authority to act. In fact, case law makes it clear that the town agent has no authority to originate suits in favor of the town or to settle or compromise suits in which the town has an interest. Instead, the agent's duty consists merely of assisting when litigation is in progress, and only at the request of the selectboard. *Cabot v. Britt*, 36 Vt. 349 (1863); *Clay v. Wright*, 44 Vt. 538 (1872). The role of town agents who are not attorneys is often limited to activities such as assisting the board in picking an attorney for the town or acting as a liaison between the selectboard and the town attorney in particular matters. For more information about the authority and duties of the town agent, consult the *VLCT Handbook for Vermont Town Officers* (1999), or call the VLCT Municipal Law Center.

***VLCT News***, June 2000