

WELCOME TO THE



**Michigan
Municipal
Executives**

2025 Winter Institute



Establishing an Effective Working Relationship with Your City Attorney

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*Establishing an Effective Working
Relationship with Your City Attorney*

INTRODUCTIONS

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*Establishing an Effective Working
Relationship with Your City Attorney*

THE GOAL

To develop and maintain an effective and positive working relationship between me and my municipality's attorney to achieve the maximum benefit for my administration and community.



Establishing an Effective Working Relationship with Your City Attorney

FIRST, SOME POTENTIAL HURDLES TO OVERCOME

Let's start with some common negative perceptions of municipal lawyers, which are not helpful to the Goal—some may be justified, but mostly not:

An impediment.

A naysayer.

A worrywart.

Vacillating.

Not on my “side.”

Pretentious/Arrogant

An enigma.

... and more



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SOME THINGS TO UNDERSTAND ABOUT WHY YOUR MUNICIPALITY NEEDS AN ATTORNEY IN ORDER TO ACHIEVE THE GOAL

The list is longer than this, but here are some key reasons to think about:

- The law impacts and has potentially serious implications for nearly every decision and action of a municipal official, council, or board.
- But the law is far from simple or easy to understand.
- There is a complex set of statutory and constitutional provisions at both the state and federal levels, as well as a massive body of court decisions interpreting those laws, sometimes in unexpected ways.
- Making things even more complicated, statutes and constitutional provisions are amended on occasion and so are court interpretations of them.



Establishing an Effective Working Relationship with Your City Attorney

SOME THINGS TO UNDERSTAND (CONTINUED)

- Lawyers constantly study all these facets of the law and are trained to work through these ever-changing complexities.
- This legal training and expertise become extremely important in the *grey areas of the law*, which are everywhere.
- A qualified municipal attorney is particularly experienced in the area of *municipal law* and can help public officials navigate through the nuances in the law, so that your municipality will find its way to decisions that are both lawful and for the betterment of the community.
- A qualified municipal attorney will help public officials and the municipality best position themselves to avoid being sued unnecessarily, and when a lawsuit is filed, she will be there to defend or assist in the defense of public officials or the municipality.



Establishing an Effective Working Relationship with Your City Attorney

UNDERSTANDING THE ROLE, DUTIES, AND ETHICAL OBLIGATIONS OF A CITY ATTORNEY IS ALSO IMPORTANT TO ACHIEVE THE GOAL.

- In most instances, your municipal attorney represents the municipality first and foremost. And so do you!
- Once in a while, this can lead to some uncomfortable situations between the attorney and municipal officials.
- You want to get the project done on time, under budget, and to council's liking. So does your municipal attorney.
- Your municipal attorney wants the job to be done lawfully. So do you.



Establishing an Effective Working Relationship with Your City Attorney

UNDERSTANDING THE ROLE (CONTINUED)

- The municipal lawyer has to know, or have other attorneys at her disposal, an amazingly vast area of law. Contract law. Constitutional law. Negligence law. Property law. Zoning law. OMA. FOIA. Criminal law. The list goes on and on.
- The municipal lawyer has to be, or have other attorneys at his disposal who are, trial lawyers, negotiators, legal writers, prosecutors, transactional lawyers, etc.
- Writing legal briefs, legal opinions, ordinances, contracts, etc., all take an incredible amount of research and time to put together. For the most part, there are no “form” documents for municipal lawyers.
- In addition to the state and any municipal ethics rules that apply to all public officials, a municipal lawyer has her own set of ethics rules that also apply. There are a lot of them, and she can lose her license to practice law for violating them.



Establishing an Effective Working Relationship with Your City Attorney

“UNDERSTANDING” IS A TWO-WAY STREET!

- A municipal attorney is there to provide you *legal* advice based on the *law* and facts provided to him or her.
- An experienced municipal attorney will respect that *you* or your council make the decisions, and that those decisions usually take into consideration *policy* issues and *politics*, along with the law.
- Such an attorney will not be offended if your decision is contrary to his or her advice (so long as it is still legally permitted, of course).
- The attorney’s job, when asked, is to help you make your decisions after having been advised of the law and legal risks associated with those decisions.



Establishing an Effective Working Relationship with Your City Attorney

“UNDERSTANDING” IS A TWO-WAY STREET! (CONTINUED)

- Your municipal attorney cannot prevent someone from suing the city or its officials, but if you ask for her advice and opinion on a matter before making a decision, it is likely that your attorney will be able to help you to reduce the risk of being sued or at least put the city in a good position to manage the risk of liability (i.e., defend itself) if a lawsuit is ultimately filed.
- But you need to ask for her advice *before* the decision is made.
- Your municipal attorney should be neutral and do his best to be circumspect in the advice and opinions given to you.



Establishing an Effective Working Relationship with Your City Attorney

“UNDERSTANDING” IS A TWO-WAY STREET! (CONTINUED)

- It's always easy to give a client the answer they want to hear.
- As hard as it is to do, your municipal attorney will occasionally have to advise that the law says you cannot do something, *or that you should consider doing it a different way.*
- In doing this, an experienced and qualified municipal attorney is not trying to be an impediment, take sides, or unnecessarily create problems for you (or he should not be doing those things). Instead, he is fulfilling his duty as the *municipality's* attorney.



Establishing an Effective Working Relationship with Your City Attorney

OKAY, I GET IT. SO NOW WHAT?

- Recognize that your municipal attorney can be a key asset and resource in running a successful local government. How?
- Developing a communicative and positive working relationship with him or her can be critical to your and your municipality's progress and achievements. Why?



Establishing an Effective Working Relationship with Your City Attorney

AND HOW DO I GET THERE?

- Constantly communicate.
- Share information. Attorney's need accurate information, and sometimes a lot of it.
- In my experience, the most effective municipal administrations consider and treat their municipal attorney as an essential member of the administrative team.
- Viewing or treating him or her as an outsider (see negative perceptions above), someone only needed when a lawsuit is threatened or filed, or as just another outside vendor or consultant is a mistake and may be too late.
- Your municipal attorney is, and should be, recognized by everyone as part of your organizational chart, and everyone should recognize and interact with him or her accordingly.



Establishing an Effective Working Relationship with Your City Attorney

AND HOW DO I GET THERE? (CONTINUED)

- On a more practical side, understand that interactions with your municipal attorney during public meetings or in the midst of administrative meetings may put her in an awkward position, because the attorney often must straddle the line between providing good legal advice to you in public while simultaneously maintaining what should be a strictly confidential attorney-client privilege.
- If anyone has legal questions or issues on meeting agenda items, the best practice is to communicate them to your municipal attorney before the meeting in order to provide an opportunity to properly consider and respond to the issue ahead of time.



Establishing an Effective Working Relationship with Your City Attorney

Your municipal attorney also needs to join you in achieving the Goal. What are some things to consider in finding an attorney who is more likely to be the right fit for your community in these regards?

1. Experience as a *municipal* lawyer.
2. Demonstrated knowledge of the laws applicable to *municipalities*.
3. Respectful wisdom.
4. Character and reputation among peers and clients in the field of *municipal* law, not in another areas of law or politics.
5. Longevity with his or her current *municipal* clients, including your municipality.



Establishing an Effective Working Relationship with Your City Attorney

THINGS TO CONSIDER (CONTINUED)

6. Input from your department heads.
7. Knowledge of your community and familiarity/experience with your government.
8. Attitude toward litigation.
9. If outside counsel, dedication to municipal law and support and resources available in his or her law firm to assist in representing your municipality.
10. Hourly rate/cost. The old maxim “penny wise and pound foolish” may apply.



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CONCLUSIONS AND QUESTIONS

THANK YOU!



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