Annual Report

2019

Corporation Counsel
Town of Normal
I. About the Legal Department

Mission

The Legal Department advances the Town of Normal’s strategic goals and promotes the legal and ethical integrity of the Town of Normal by providing quality legal representation to the Town’s officials, executive departments, and boards and commissions.

Duties and Functions

The Town Code of Ordinances sets out the powers and duties of the Legal Department (§§2.3-33 through 2.3-37). These ordinances assign all of the Town’s legal activities to the Legal Department.

The Legal Department advises Town officials and employees on legal matters. Under legal-ethics rules, the lawyers in the Department represent the Town of Normal as a corporate entity; they do not represent any particular official or individual. The Legal Department does not provide legal advice to persons concerning private matters not involving the Town; its primary function is to serve as the legal advisors to the Town.

Common activities of the Legal Department are:

- **Legislative drafting:** the Legal Department is the primary drafter of all ordinances, resolutions, and other legislative matters that go before the Town Board of Trustees.

- **Contract administration:** The Legal Department is responsible for drafting, reviewing, and negotiating contracts to which the Town is expected to become a party.

- **Real-estate matters:** The Legal Department reviews and coordinates all real-estate transactions and other real-estate matters involving the Town.

- **Regulatory compliance:** There are a myriad of state and federal laws and regulations that affect the operations of municipal governments. The Legal Department provides guidance on these laws and regulations to Town officials and employees.

- **Litigation:** The Legal Department is responsible for prosecuting or defending any and all suits or actions at law or equity to which the Town may be a party or have an interest. This litigation may occur in the courts or through various administrative processes. Outside counsel may be hired to assist with litigation matters, and
such counsel is routinely hired in matters covered by the Town’s liability insurance coverages.

- **Municipal prosecutions:** The lawyers in the Legal Department serve as the municipal prosecutors for violations of Town Ordinances. Depending on the violation, these prosecutions may occur in the courts or in the Town’s Administrative Adjudication System.

- **Debt collections:** The Legal Department assists in the collection of Town’s accounts receivable.

### Department Personnel

The Legal Department consists of the Corporation Counsel and any deputies, assistants, or other staff as necessary. The Corporation Counsel is the chief legal officer of the Town.

At the close of 2019, the Legal Department consisted of three employees:

- Brian Day—Corporation Counsel
- Jason Querciagrossa—Deputy Corporation Counsel
- Atanacia “Nacha” Ramirez—Office Associate

**Brian Day, Corporation Counsel**

As the Corporation Counsel, Brian Day is the chief legal officer of the Town of Normal. He is responsible for supervising the activities of the Legal Department.

Brian has served as the Corporation Counsel since 2014. Prior to that, from 2008 to 2014, Brian was the Lead Staff Attorney for the Illinois Municipal League, which is a statewide association representing Illinois municipal governments. There, Brian advised municipal attorneys across the state on matters of municipal law. He was also a registered lobbyist, representing local-government interests in the Illinois General Assembly.

From 2001 to 2008, Brian was a Staff Attorney for the Illinois Legislative Reference Bureau, which is an agency in the Illinois General Assembly responsible for drafting the legislation that comes before the state legislature. There, Brian was responsible for drafting tax legislation and local government legislation.

Originally from the Pacific Northwest, Brian is a graduate of Washington State University in Pullman, Washington and the John Marshall Law School in Chicago, Illinois.

Before college, Brian served in the U.S. Air Force and is a veteran of Operation Desert Storm.
Brian is a frequent speaker and author on matters of local-government law. He currently serves as the Illinois State Chair of the International Municipal Lawyers Association. He serves on the Board of Directors of the Illinois Local Government Lawyers Association. He is also active in the Illinois Municipal League Home Rule Attorneys Committee and the McLean County Bar Association.

Jason Querciagrossa, Deputy Corporation Counsel
As the Deputy Corporation Counsel, Jason serves as the Town’s lead municipal prosecutor and is the primary attorney on most of the Town’s litigation matters. He also assists in a wide range of other legal matters for the Town and is the Legal Staff assigned to the Zoning Board of Appeals.

Prior to joining the Legal Department in January 2018, Jason was an Associate Attorney with the law firm of Aplington, Kaufman, McClintock, Steele & Barry, Ltd. There, he handled a wide range of civil matters, including divorce and child custody cases, collection litigation, and appeals. While in law school, Jason interned for Alliant Insurance Services, Inc.’s Legal Department where he assisted with contract drafting and negotiation.

Jason is a graduate of the University of Illinois and the University of San Diego School of Law. He is admitted to practice law in both Illinois and California.

Nacha Ramirez, Office Associate
As the Legal Department’s Office Associate, Nacha is responsible for the clerical and operational functions of the Legal Department. She is primarily responsible for managing the Department’s records and filings and for overseeing the various court and administrative dockets. Nacha serves as the first point of contact for the public in dealing with the Legal Department. Also, as a fluent Spanish speaker, Nacha assists in translation activities for the Town.

Nacha brings a wide range of experience to the Department. Prior to joining the Town of Normal in 2016, Nacha was a Legal Assistant for the law firm of Williams & Swee, Ltd., where she provided administrative support for cases concerning workers’ compensation, disability, and personal injury. Before that, she was a Legal Secretary for the firm of Elliott & McClure, PC in Momence Illinois, where she worked on a variety of civil legal issues and performed administrative tasks for the President of the Kankakee County Bar Association. She has worked at Provena St. Mary’s Hospital in Kankakee, Illinois as an Account Maintenance Clerk and as an Office Clerk at the Cook County Department of Public Health.
II.
Highlights of 2019 Activities

Performance Measures

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<th>Activity</th>
<th>2016</th>
<th>2017</th>
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<tr>
<td>Council Legislation</td>
<td>216</td>
<td>210</td>
<td>151</td>
<td>148</td>
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<td>Ordinance Violation cases filed</td>
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<td>1081</td>
<td>885</td>
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<td>Small Claims cases filed</td>
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<td>Defense Litigation</td>
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<td>2</td>
<td>1</td>
<td>5</td>
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<td>Vehicle Impoundment Hearings</td>
<td>449</td>
<td>386</td>
<td>311</td>
<td>246</td>
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<tr>
<td>Real Estate Matters</td>
<td>22</td>
<td>4</td>
<td>9</td>
<td>6</td>
</tr>
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- **Council Legislation** consists of all of the ordinances, resolutions, and other legislative materials drafted by the Legal Department for consideration by the Board of Trustees of the Town of Normal.

- **Ordinance Violation Cases** are quasi-criminal cases brought by the Town for violations of Town ordinances. The cases are prosecuted in the Circuit Court.

- **Small Claims Cases** are debt-collection cases brought to collect debts that are owed to the Town.

- **Defense Litigation** means the lawsuits (other than workers’ compensation suits) that are brought against the Town. These suits are submitted to the Insurance Pool for coverage and defense if the claims are covered by the Town insurance policy. Non-insured claims may be defended in house or defended by outside counsel. The Town Legal Staff works with outside counsel in coordinating the defense of the action.

- **Vehicle Impoundment Hearings** are hearings to determine whether the Town police officers had probable cause to impound vehicles used in connection with certain criminal activities.

- **Real Estate Matters** are transactions to buy or sell real estate along with related activities such as granting or obtaining easements.
Litigation Matters (Non-Prosecution)

1. Town as Defendant: Five new lawsuits were brought against the Town in 2019:

   - One case was filed in federal court to prevent the Town from destroying a mural located on the building at 104 Beaufort Street. That case has been dismissed.
   - One case was a slip-and-fall on a Town sidewalk. That case has been dismissed.
   - One case alleged violations of the Freedom of Information Act. That case was never properly served on the Town and never prosecuted.
   - One case alleged that a Town employee was subject to toxic fumes at a Town facility while off duty. That case is pending.
   - One case alleged constitutional violations in a prosecution for child abuse and filing false police reports. That case is pending.

2. Town as Plaintiff: The Town of Normal filed 139 cases in small claims court in 2019 to collect debts owed to the Town. These debts may be due from ambulance services, delinquent taxes, judgments, service fees, or similar debts.

Litigation Matters (Prosecution)

In 2019, the Town of Normal filed 705 ordinance-violation cases in the Circuit Court of McLean County. This is a 20% decrease from the prior year, where 885 cases were filed.

In addition to the cases filed in court, many cases are settled when the defendant pays the fine before the case is filed.

Administrative Adjudications

The Town of Normal has established an Administrative Adjudication System for hearings for various violations of municipal ordinances. These are cases presented to a hearing officer at City Hall rather than processing the cases through the court system.

The Town of Normal handles three types of cases through its Administrative Adjudication System:

   - Vehicle impoundments
   - Property maintenance violations
   - Parking-ticket appeals.
Vehicle impoundments are held in accordance with Section 11-208.7 of the Illinois Vehicle Code. That State statute authorizes the impoundment of a vehicle that is used in the commission of certain criminal offenses. If a vehicle is impounded, the Town may impose a fee for the vehicle’s release. When the fee is imposed, the Town must give the vehicle’s owner an opportunity for a hearing in front of the administrative-hearing officer for a determination of whether probable cause existed to impound the vehicle.

In 2019, there were 246 impoundment cases. This is a 20% decrease from 311 cases in 2018.

Property maintenance violations are violations concerning the Town’s ordinances with respect to the upkeep and maintenance of property. The Town may issue citations for these violations and have the case heard in administrative adjudication. In 2019, the Town brought eight cases against property owners. Of those, one case was dismissed after the property owner brought the property into compliance with the law; the remaining two case are still pending.

Parking-ticket cases are brought to administrative adjudication if a person contests a parking ticket. Additionally, the Town may schedule parking ticket cases for hearing where an individual has three or more unpaid tickets. In 2019, 34 parking-ticket cases were set for hearing.

**Liquor Commission Actions**

The Legal Department prosecutes actions against liquor-license holders who have been charged with violating the Town’s liquor laws. These cases are brought before the Mayor, who serves as the Local Liquor Control Commissioner.

In 2019, there were 4 cases brought before the Local Liquor Control Commissioner.

**Public Access Counselor Appeals**

The Legal Department responds to cases brought by the Public Access Counselor in the Attorney General’s Office. These cases are requests for review for the PAC to determine whether the Town violated either the Open Meetings Act or the Freedom of Information Act in response to a complaint.

In 2019, the PAC filed three requests for review with the Town, two concerned alleged violations of the Open Meetings Act, and one alleged violations of FOIA. The PAC ruled that the Town acted properly with respect to the FOIA allegation. The Town has not received a decision on either of the OMA cases.