

Annual Report

2016

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 2016, the Legal Department consisted of four employees:

- Brian Day—Corporation Counsel
- Jessica Woods—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 is also active in the Illinois Municipal League Home Rule Attorneys Committee, the Illinois Local Government Lawyers Association, and the McLean County Bar Association.

Jessica Woods, Deputy Corporation Counsel

As the Deputy Corporation Counsel, Jessica serves as the Town's lead municipal prosecutor and is the primary attorney on most of the Town's litigation matters. She 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 2016, Jessica was an Assistant States Attorney with the McLean County State's Attorney's Office. There, Jessica worked in the Civil Division, where she advised the county on a wide range of civil issues. Prior to working in the Civil Division, Jessica was a prosecutor, where she prosecuted felony criminal cases.

Prior to joining the State's Attorney's Office in 2007, Jessica worked with the Wilbur Law Firm, PC, where she handled a wide range of civil matters.

Jessica is a graduate of Western Illinois University and the University of Illinois College of Law.

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 2016 Activities

General Overview

The biggest event in 2016 was staff turn-over. In June of 2016, Wayne Karplus, the Deputy Corporation Counsel, retired after nearly three decades with the Town, and in July of 2016, Chris Leese, the Office Associate, retired after 17 years with the Town. These long-term employees were replaced by Jessica Woods as the Deputy Corporation Counsel, and Atanacia “Nacha” Ramirez as the Office Associate.

This staff turnover completes the anticipated restructuring of the Legal Department, which began when Brian Day became the Corporation Counsel in 2014. The Department is in the process of training and of evaluating its current processes and procedures and in updating and implementing new procedures.

Performance Measures

| Activity | 2013 | 2014 | 2015 | 2016 |
|---------------------|------|------|------|------|
| Council Legislation | 159 | 171 | 168 | 216 |
| Internal Inquiries | 1041 | 872 | 889 | 905 |
| Outside Inquiries | 473 | 379 | 388 | 380 |
| Legal Activity | 1041 | 889 | 906 | 925 |
| Real Estate Matters | 0 | 3 | 13 | 22 |
| MICA Litigation | 5 | 3 | 1 | 1 |

- **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.
- **Internal Inquiries** are legal questions by Town officials or employees.
- **Outside Inquiries** are legal questions by somebody other than Town officials or employees.

- **Legal Activity** is any formal action taken by the Legal Department. This may include drafting and reviewing contracts or other legal documents, research memoranda, negotiations, formal correspondence, or similar activities.
- **Real Estate Matters** are transactions to buy or sell real estate along with related activities such as granting or obtaining easements.
- **MICA Litigation** means the lawsuits (other than workers' compensation suits) that are brought against the Town and submitted to the Insurance Pool for coverage and defense.

Litigation Matters (Non-Prosecution)

1. Town as Defendant: One new lawsuit was brought against the Town in 2016. This is a personal injury lawsuit stemming from a trip-and-fall in a hole in a parkway along the street. The Town tendered the case to the MICA Insurance Pool for coverage and defense.

2. Town as Plaintiff: The Town of Normal filed 300 cases in small claims court in 2016 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 2016, the Town of Normal filed 1,182 ordinance-violation cases in the Circuit Court of McLean County. In addition to the cases filed in court, many cases are settled when the defendant pays the fine before the case is filed.

The following is the amount of fines collected from ordinance violations:

| Year | Paid at City Hall | Court Imposed | Total |
|-------------|--------------------------|----------------------|--------------|
| 2016 | \$541,610 | \$20,451 | \$570,327 |
| 2015 | \$643,250 | \$18,525 | \$661,775 |
| 2014 | \$466,375 | \$34,025 | \$500,400 |
| 2013 | \$618,100 | \$27,350 | \$493,824 |

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 vehicles 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 2016, there were 449 impoundment cases. This is a 34% decrease from 683 cases in 2015. Of the 449 impoundment cases, 401 (89%) of those were default judgments, where the vehicle owner did not appear to contest the impoundment. Of the 48 cases where a hearing was held, 46 were found to be proper impoundments, and the fee was refunded in the remaining two cases.

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 2016, the Town brought 10 cases against property owners. Of those, 7 were dismissed after the property owner brought the property into compliance with the law, two cases were settled with a settlement, and the remaining case is pending.

Parking-ticket cases are brought to administrative adjudication if an individual contests his or her parking ticket. Additionally, the Town may schedule parking ticket cases for hearing where an individual has three or more unpaid tickets. In 2016, 87 parking-ticket cases were set for hearing to review a total of 251 tickets. Of those 251 tickets, 424 tickets (96%) were found to be valid, and eight (4%) were found to be invalid.

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 2016, there were six cases brought before the Local Liquor Control Commissioner. Each of those cases was for furnishing alcohol to a person under 21 years of age, and each was settled with the payment of a fine.

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 2016, the PAC filed four requests for review with the Town, one concerning an alleged violation of the Open Meetings Act and three concerning alleged violations of FOIA. The Town has not received a decision on any of these cases. In three of those four cases, the Attorney General has not issued any decision within the statutory time limit to issue a binding decision. In the remaining case, the statutory time limit has not expired as of the time of this report.

There have been no findings that the Town violated either the Open Meetings Act or FOIA.

