

# Understanding League Legal Services

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The League has two attorneys on staff, Claire Silverman (Legal Counsel) and Maria Davis (Assistant Legal Counsel). We do not represent individual municipalities but, instead, serve as a general resource for member municipalities. We are here to assist you and look forward to serving you. We hope this article describing our legal services helps you understand what services we offer, as well as some of our limitations, so that we can better assist you and your municipality.

## General Legal Inquiries

The League attorneys receive many inquiries daily. Although inquiries can be made by telephone or in writing, how we respond to written inquiries largely depends on what type of response is sought. We will respond to written requests for information by sending information (e.g., articles, past opinions, legislative information, sample ordinances) that we have readily available. Written requests seeking an opinion that do not comply with the League's policy governing requests for formal advisory opinions (see below) will be declined and we will either suggest that you call us if you are interested in discussing the matter generally, or we will call the sender if a telephone number is provided. League attorneys will only provide written advisory opinions when the request comes through the proper channels, as discussed below under the sub-heading "Requests for Formal Advisory Opinions."

**Availability:** We try to have an attorney available daily to answer calls between 8:00 a.m. and 4:45 p.m. We try to answer

calls as they come in, but that is not always possible given other responsibilities and priorities. If we are busy when you call, leave a message. We try to return calls the same day if possible.

Please call well in advance of when you need the answer. We get many last-minute calls from officials as they are heading out the door to that night's meeting. We may need to do some research or look through our files to answer your question; a little advance planning on your end will help us assist you more effectively.

**Who may inquire?** We answer inquiries from member municipal officials and employees who are inquiring about matters within their official responsibilities. In response to phone inquiries, we will provide verbal information and supply existing written legal opinions, sample ordinances, articles, and other relevant information that we have in our files.

**Confidentiality:** Our conversations with municipal officials or employees should not be considered confidential. We want to emphasize that **there is no attorney-client relationship between League attorneys and municipal officials or employees that call seeking assistance.** Our client is the League of Wisconsin Municipalities, acting through the League's Board of Directors. If you request that our conversation be kept confidential, we will attempt to honor your request, but we do not guarantee confidentiality. We will be unable to honor your request if a dispute later arises regarding what we told you or what we

understood the facts relevant to your inquiry to be.

A municipal employee who takes issue with the way the municipality is proceeding or treating the employee will likely be directed without comment to the appropriate state agency. League attorneys cannot advise an employee or official whose interests are adverse to the municipality because the municipality is the League member, not the individual municipal employee or official.

**Subject Matter of Inquiries:** Call the League's attorneys with *general* questions pertaining to municipal law. We are a resource and can sometimes save you from expending a lot of time and effort by quickly directing you to a controlling statute or case. We can also give you a head start on your research by sharing information we have already gathered.

However, we prefer not to answer questions pertaining to fact-specific situations in your municipality. For starters, we do not represent individual communities, and meeting your community's legal needs is the responsibility and prerogative of your municipal attorney. Moreover, when a situation is specific to your community, we may not have all of the information necessary to answer the inquiry correctly. For example, your municipality may have an ordinance that governs the situation. The League's attorneys would not necessarily be aware of that ordinance.

Please be candid with us when you call regarding a particular matter. If you have already asked the municipal attorney for an answer and either did not like the

answer or believe the municipal attorney was wrong, please tell us. This is very important. We are not a substitute for the municipal attorney. Your municipal attorney is responsible for representing your city or village. If push comes to shove, the municipal attorney will be the one in court representing the municipality.

Although it may seem like there are so many laws that there should be one to concretely address every question that arises, each situation presents a new set of unique facts; unique facts add wrinkles. That's why answers to legal questions sometimes come in gray, rather than black and white. In such situations, attorneys presented the same facts and law can reasonably reach different conclusions.

Finally, please recognize that we answer legal questions and cannot advise regarding policy matters. For example, if your municipality is considering building an aquatic center and wants to know whether it can hold an advisory referendum on the issue, we can tell you whether an advisory referendum is permissible. We cannot tell you whether holding such a referendum is a good idea or a bad idea. If your municipality is installing sidewalks and wants to know what options are available for paying for the sidewalks, we can explain various options. We cannot advise you which option makes the most sense for your community. Such matters are policy questions, rather than legal questions, and must be determined by the legislative body.

### ***Requests for Formal Advisory Opinions:***

League attorneys can only issue formal written advisory opinions when the requests for an opinion are made in compliance with the policy formulated by the League's Board of Directors.

Requests for written opinions must be in writing and should come from the municipal attorney or by formal request from the member municipality's

governing body. League attorneys cannot give formal advisory opinions to individual officials. We occasionally make exceptions when the question asked is uncontroversial, easily answered by reference to a specific statute or case, and is of general interest to municipalities.

Requests for a formal advisory opinion should fully state the question upon which an opinion is desired and set forth the municipal attorney's conclusion. The request should fully state the facts giving rise to the question presented and set forth any statutory provisions, administrative codes, cases or ordinances that the municipal attorney or municipality is aware of and deems relevant.

Since we do not directly represent any individual city or village, we discourage questions that are fact specific or that involve issues unique to the requesting municipality. We are best able to answer general questions pertaining to municipal law which are of general interest to municipalities and which can be answered by reference to statutes and court opinions.

The time it takes us to answer written requests for formal legal opinions depends on the complexity of the question presented, the adequacy of the background information provided, and our workload and other priorities. However, we always strive to respond in a timely manner. If there is a deadline, please indicate what it is and we will do our best to meet it.

### **League Opinions**

We maintain copies of all formal advisory opinions rendered by the League. Newer opinions are available for a year on the League's website. Each League opinion is summarized in a caption that is organized by subject matter (e.g., Annexation, Public Records, Powers of Municipalities). Captions going back to the late 1990s, are available under the

"Legal" tab on the League's website. Captions and more than 30 years' worth of League opinions are available on the League's legal CD, discussed below. Municipal officials and employees may request copies of any prior legal opinion using the general subject heading and number (e.g., Governing Bodies 250). If you wonder whether we have ever written a legal opinion on a particular issue, please ask; we will be happy to search our database for you.

### **League Publications**

The League offers manuals on a variety of topics of interest to municipal officials. League attorneys are responsible for writing and updating most of our publications. The League's monthly magazine, *The Municipality*, includes a legal comment on a topic of concern to municipal officials, a column featuring "Frequently Asked Questions," and recent opinions and legal notes written by League attorneys. We also publish "captions" or summaries of all legal opinions written during the prior month.

### **League Website**

The League's website contains much useful legal information under the sub-heading "Legal," including captions and complete text of all League legal opinions and articles written over the last year. In particular, we invite you to look at the section containing "Legal Municipal Frequently Asked Questions." You will find a wealth of information there.

### **League Legal CD Rom**

The League's Legal CD Rom is searchable and contains the following resources:

- League legal opinions back to 1976
- Index summarizing conclusions of the League's legal opinions published since the early 1960s

- Municipal Attorneys Institute Conference Papers back to 1998
- Complete text of nine of the most popular League manuals, including our *Handbook for Wisconsin Municipal Officials*.

New orders of the League Legal CD-ROM are \$195.00, and renewal subscriptions for future years are currently \$150.00. To order, contact Ray Bollhauer, American Legal Publishing, (800) 445-5588, or visit <http://www.amlegal.com/product-category/wisconsin-cd-order-form/>

### Sample Ordinances

We frequently receive requests for model or sample ordinances. We subscribe to a site that allows us to search a large number of municipal code books simultaneously. We also have some sample ordinances on our website relating to a variety of subjects. If you are searching for a sample ordinance on a particular topic, give us a call. We may be able to help you. Please bear in mind that any samples we send are provided as examples. We do not represent that they are necessarily lawful or appropriate for your community. Any sample ordinance or policy which you get from us should be reviewed by your municipal attorney before it is adopted.

Because we frequently get requests for sample ordinances, we appreciate receiving copies of any new ordinances

your community has adopted which you think might be of interest to other municipalities.

Sometimes we are asked how many municipalities have adopted certain types of ordinances. We do not gather this type of statistical data and cannot accurately answer these types of questions.

### Amicus Briefs

The League's legal staff seeks permission to file amicus curiae ("friend of the court") briefs in Wisconsin appellate court cases involving issues of importance to Wisconsin municipalities. We do not participate at the circuit court level because those decisions are not published and do not serve as precedent for other municipalities.

When deciding whether to file an amicus brief in a particular case, we consider the number of municipalities likely to be affected by the court's decision; the significance of the legal issues presented, and particularly whether those issues involve (a) an interpretation of home rule or other municipal powers; (b) substantial financial impacts on Wisconsin cities and villages; and (c) substantial risk that existing law favorable to municipal interests will be adversely changed, or that new or developing law will develop in a manner inconsistent with the interests of municipalities.

We typically learn of important municipal appellate court cases from the

municipalities that are involved in the case. If your municipality is involved in an appellate case which you believe warrants the League's participation, please send a copy of the decision being appealed from and a letter explaining the issue involved and why you think it is appropriate for the League to participate as amicus.

### Educating Local Officials

The League's attorneys organize the League's annual Municipal Attorneys Institute and often participate in other educational workshops and seminars sponsored by the League. In addition, we are often asked to address various associations and organizations made up of municipal officials.

### Conclusion

The League's legal services are a valuable part of your municipality's League membership. We hope this article helps you understand the breadth of those services and how to access them. We look forward to serving you and your municipality.

### Miscellaneous 1R4

#### About the Author:

Claire Silverman is Legal Counsel for the League of Wisconsin Municipalities. She joined the League staff in 1992. Contact Claire at [cms@lwm-info.org](mailto:cms@lwm-info.org)



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