

DECEMBER 2017 • COLORADO MUNICIPAL LEAGUE

COLORADO MUNICIPALITIES



LEGAL ISSUES

YOU AND YOUR MUNICIPAL ATTORNEY,
SOLVING THE MYSTERIES OF THE LAW,
THE FOUNDATION OF MUNICIPAL LAW,
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Mission

Colorado Municipalities is published to inform, educate, and advise appointed and elected municipal officials about new programs, services, trends, and information to help them perform their jobs and better serve their citizens and communities.

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The Colorado Municipal League is a nonprofit association organized and operated by Colorado municipalities to provide support services to member cities and towns. The League has two main objectives: 1) To represent cities and towns collectively in matters before the state and federal government; and 2) To provide a wide range of information services to help municipal officials manage their governments.

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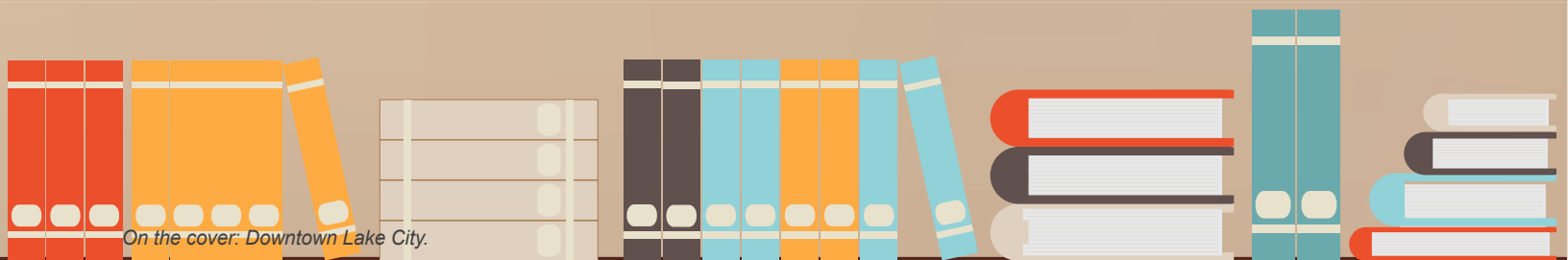
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NANCY RODGERS, AURORA SENIOR ASSISTANT CITY ATTORNEY AND
CML ATTORNEYS SECTION CHAIR



COLORADO MUNICIPALITIES

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LETTERS TO THE EDITOR

Have some thoughts about an article that you read in Colorado Municipalities?

Want to share those thoughts with your colleagues across the state?

CML welcomes thought-provoking letters to the editor!

Send your comments to Communications & Design Specialist Traci Stoffel at tstoffel@cml.org.



CML'S VISION:

Empowered cities and towns, united for a strong Colorado.

CML'S MISSION:

Founded in 1923, the Colorado Municipal League is a nonprofit, nonpartisan organization providing services and resources to assist municipal officials in managing their governments and serving the cities and towns of Colorado.

REFLECTIONS OF A FORMER CML LAW CLERK

THANK GOODNESS FOR Facebook's "On This Day" feature. It recently reminded me that I passed the bar exam in October, five years ago. When I started law school, I had envisioned working as a corporate attorney for a financial institution. After all, I had graduated with a bachelor's degree in business management with an emphasis in finance. However, it seems fate had a different path.

At the end of my first year of law school, I was, like most other students, looking for internships or clerkships to gain experience. This is when I got very fortunate. One of the graduating students from the law school suggested I interview for the law clerk position at the Colorado Municipal League (CML). I remember

the interview and some of what they liked about my résumé — specifically, when I was in my undergraduate studies, I worked in the parks department. My duties involved trimming grass (lots and lots of trimming) and watering flowers on Main Street in a motorized work cart that had a several hundred-gallon water tank on the back. I also had been in student body government, assigned to local government relations. I was in charge of a committee that was tasked with improving the communication between the City of Rexburg, Idaho, and the students who attended the college. It seems that fate had been working toward me being involved in local government well before I was aware.

Looking back on that interview, the most memorable question was also the most difficult to answer: "What do you do for fun?" What a foreign concept at the time! Law school certainly was not fun, nor did it allow for much free time to pursue activities and recreation. Not to mention my wife and I were blessed to have our first child the Thursday before law school started. We had been to the emergency room twice with our daughter and spent a weekend in Children's Hospital. After pondering the question, I said something along the lines of "I don't know. I used to like reading."

I clerked with CML for two years. It is during this time that I caught the municipal fever. I was blessed to have some amazing mentors who assisted me in navigating through the volumes of laws and resources to answer inquiries from across Colorado. This provided me with a broad-brush stroke into many different areas of law.

I remember assisting towns and cities from around the state on a variety of issues. I kept a log book to help me organize voicemails, emails, and other requests. Having the log book also helped when I had the opportunity to have the same question from another municipality; however, it took nearly a year before I saw the same question twice. This is a testament not only to the breadth of issues I had the opportunity to learn about, but also how heavily I relied upon the other staff members at the League for their assistance in pointing me in the right direction on issues.





During my stint working for CML, I also was fortunate to intern and work as a seasonal employee for the City of Littleton. While there, I was afforded the opportunity to, among other things, draft an ordinance reorganizing the criminal code, research ADA issues, and spend time prosecuting in municipal court. Between working at CML and Littleton, I was provided a great springboard to my future as a city attorney.

Upon graduating and taking the bar exam, I was again blessed with the opportunity to work for another municipality. Although I did work temporarily as a contractor reviewing real estate transactions related to the housing market crash, I was itching to get back into municipal government. The City of Fort Morgan offered me a position as a contractor, then as a seasonal, and later as a full-time employee when I accepted the position of assistant city attorney in January 2013.

Working as a full-time attorney provided many new opportunities to sharpen my skills and expand my horizons. I found myself relying on some of the inquiries I had answered during my time at CML. After about two and a half years with the City of Fort Morgan, I was again blessed to be appointed as city attorney in July 2015.

Working as a city attorney allows me to continue to learn and grow. It also gives me the chance to be proactive in legal issues that face my community as well as legal issues facing other

cities and towns. Because of my ties at CML, I have been asked to assist in the development of a few legal issues through the legislative process. In particular, I provided testimony to the state legislature concerning the impacts of changing the requirements for municipal courts. I also had the opportunity to sit on two working groups put together by the secretary of state's office for the development of changes to the Colorado Open Records Act. In addition to being involved with CML, I have been active with the Colorado Bar Associations' Government Counsel Section and provided input on pending legislation. Also, as the City of Fort Morgan owns and operates all of our own utilities, I have been involved in the legislative work of the Colorado Association of Municipal Utilities as well.

Being involved in these various capacities developing legislation at a state level has been strenuous when added to the day-to-day operations of the Fort Morgan City Attorney's Office. However, I have been blessed by an amazing city council who sees the importance of ensuring the small municipal government perspective is represented at the state capital. While I first and foremost have an ethical and legal duty to my client, the City

of Fort Morgan, often the time I spend working on statewide legislative issues assists in protecting the City's interests, generally while helping other communities that are similarly situated. Further, I am reminded of the importance of the perspective of all the many small municipalities that I worked with during my time at CML.

In my time working on state legislation, limited as it may be to the past few of years, I have noticed many times how unaware the legislature can be with regard to how its decisions impact smaller communities across the state. Having worked for a small community in college, worked with several small municipalities while at CML, and now working for a small rural community, I am grateful that the League continues to work on educating lawmakers on the impacts of legislation to all members of the state, not just those living in the Front Range. I am grateful for the opportunity to get involved in the development process of some of these issues to provide additional support to small communities. I look forward to the future opportunities to provide the best to the community in which I live and work, while still making a difference in the state.

YOU AND YOUR MUNICIPAL ATTORNEY

11 Tips to Get the Most out of the Partnership

IF THE TERM “MUNICIPAL attorney” makes your eyes glaze over — or worse, inspires dread reminiscent of an invitation to the principal’s office — we get it. You may think that the less you have to work with an attorney, the better. But the reality is that if you are an elected official or a municipal staff member, a municipal attorney has specific knowledge and expertise that can help you and your city or town in ways you probably do not even realize.

It is up to you how your attorney can best serve the municipality — how and when you involve him or her on projects, how often you ask for advice and how you use that advice, and how often you just ask questions. Your attorney is there to answer your questions, either directly or through research or consultation with other municipal colleagues, or a combination of both. Ultimately, your attorney is a member of your municipal team — use this valuable resource as such!

Here are 11 tips for working effectively with your municipal attorney — and how to get the most out of the relationship.

1. Remember: The Municipality Is the Client

First things first: A municipal attorney does not represent any individual councilmember or staff member. Instead, he or she represents the actual municipality through its

governing body. This means that even though your attorney may interact with councilmembers and staff members on a regular basis, the advice he or she gives to those individuals is always intended to protect the client — in this case, the municipality as a whole.

What does that mean for you? Understanding this distinction is important — your municipal attorney is not your personal attorney. Still, since your municipal attorney is tasked with protecting the municipality, by extension his or her advice to you with respect to your role can help you make decisions in a lawful way. Your municipal attorney can be a resource to help you better perform your duties.

2. Use Your Attorney as an Advisor

So, what does a municipal attorney actually do? Services might include imparting legal advice, attending council meetings, and participating in litigation.

A staff member or elected official may ask the attorney to weigh in on a specific issue. The breadth of issues



affecting municipalities is immense, so the attorney may provide this advice immediately or may need to perform research and analysis before giving an informed opinion. Often, your attorney will provide the advice in the form of a confidential memorandum protected by the attorney–client privilege that can be saved for later use and reference.

For example, let’s say your council or board has a question about the process for conducting an election. Your attorney likely would perform research and provide advice on this process to the council, but he or she also may choose to reduce that opinion to writing. At a subsequent election, referring to this memorandum can be a boon to the municipality. It conserves resources by reducing duplicate work, helps to ensure that processes are applied consistently over time, provides guidance to new attorneys, and even gives historical context on the facts and analysis applied at one point in time.

At times, your attorney also may give unsolicited advice. If he or she notices or hears about a specific issue that



raises concern, he or she will likely address the issue with the appropriate person. Solicited or unsolicited, the goal in imparting any type of advice is always to protect the municipality from legal missteps.

3. Know That It Is Advice, Not an Obligation

It is also important to understand that the advice is just that — advice.

Both officials and staff may use their discretion and choose not to follow that advice. In some instances, despite legal risk, council or staff members may decide to make policy decisions that do not align with the path that legally protects the municipality best. Ultimately, decisions are up to the elected officials or staff, depending on the nature of the issue.

While your municipal attorney may influence your decision based upon the legal advice received, he or she is not a decision maker, only a resource to you in making the decisions that, by law, only you can make.

Perhaps your attorney provides strategic advice to council on a

litigation matter. Despite potential exposure for the municipality, the council may decide to take a path that results in a better political outcome for various reasons. Or maybe your municipality is considering an ordinance permitting the sale of marijuana within its boundaries. In this case, your attorney would advise you as to the conflict between state and federal law related to this issue, but your municipality may choose to move forward with the ordinance regardless.

4. Work with Different Attorneys for Different Needs ...

On that note, it is your attorney's role to participate as much or as little as the municipal staff and elected officials need. This involvement can vary widely depending on your municipality's resources and staffing levels.

For example, if you serve a large municipality with multiple staff attorneys, you may expect to hear from one regarding litigation matters, another for land use matters, and yet another for contract matters. Each attorney may focus on a single area with the ultimate goal of protecting the municipality in that area.

5. ... Depending on Your Municipality's Resources

On the other hand, if you work with a small municipality, you may have only one attorney on staff. In this case, the manager of the municipality will



dictate how to prioritize your attorney's time.

Many smaller municipalities exclusively use outside counsel or a combination of staff and outside counsel. That may be because the municipality does not have enough legal work to employ a full-time attorney, or because the municipality prefers to use a firm so that it has access to multiple attorneys with various levels of experience and billing rates.

Either way, the municipal attorney's role and responsibilities are the same: advising staff and elected officials on legal issues; keeping elected officials apprised of the latest developments in municipal law and legislation; attending council meetings and other boards and commission meetings; and participating in litigation, if necessary.

You can expect to use your outside counsel just as you would a staff attorney — the only difference is how the attorney is paid.





6. Give Your Attorney Plenty of Lead Time

Like most people, your municipal attorney is juggling many projects, meetings, and other obligations, which means he or she may not always be able to respond as quickly as you would like.

The more lead time you can give your attorney for work that you need, the more likely it is that he or she will be able to complete it within your deadline.

Practice a little triage with your legal projects or issues by assessing their priority in terms of time and matter sensitivity.

It is to your benefit to communicate your needs and your deadline clearly. You should ask your attorney whether this deadline is realistic and, if not, work with your attorney to come up with a plan.

Your attorney is dedicated to protecting the interests of the municipality. If after-hours or weekend time is required to do that, you can count on him or her to be there.

The focus here should be on teamwork. Include your attorney as part of the project's team to ensure that you have what you need when you need it. Additionally, involving your attorney at each step means he or she can address any unforeseen legal issues early in the process.

7. Invite Your Attorney to Relevant Meetings

Your attorney will likely attend all council meetings to provide input in case an unforeseen legal question arises. If your agenda includes an executive session for the purpose of receiving legal advice, your attorney will also attend that meeting to offer input on the relevant issues. In a more general sense, it is important that your attorney attend council meetings so that he or she stays apprised of issues affecting the municipality. Given the opportunity to witness discussion among elected officials and staff, as well as public comments, your attorney can respond to those issues more competently and efficiently.

When necessary, the municipal attorney also may be invited to attend staff meetings and other boards and commissions meetings where he or she can discuss ongoing issues and projects, iron out contract terms, or brainstorm options related to a particular issue. You can save time by including your municipal attorney in these meetings because he or she will bring a legal perspective to the initial discussions that may help to ward off potential issues in the long run.

If you are unsure whether a meeting is one that your attorney needs to attend, just ask. Involving your attorney early on will help to establish a plan for your attorney's participation, which can also help set expectations and conserve resources. You may be able to work out an arrangement where an attorney attends certain regular meetings, attends all meetings concerning a specific project, or only participates on an as-needed basis.

8. Work Together Closely on Litigation Matters

When it comes to litigation, municipalities vary in their staffing choices. As mentioned, a large municipality may have staff attorneys devoted to litigation matters, both enforcing the municipal code and any other litigation in which the municipality becomes involved. On the other hand, a municipality may choose to have a staff attorney handle municipal code enforcement but outsource larger litigation matters to outside special litigation counsel.

In either case, the attorney will need to consult with staff and elected officials to gather information, participate in the discovery process, draft pleadings, and advise staff and council on strategy and potential outcomes. Particularly during the fact-finding and discovery process, your attorney will need to work closely with staff to gather the relevant information and analyze the issues at hand. Your attorney will also involve the elected officials when discussing different litigation strategies, seeking direction on how to proceed.

All communications with your municipal attorney, whether verbal or written, are considered privileged and confidential. To protect that privilege, you should never discuss the contents of those communications with anyone other than staff and elected officials unless instructed otherwise by your attorney.





And remember: As mentioned, while the attorney can advise elected officials as to the pros and cons of various courses of action in a litigation matter, it is ultimately up to elected officials to make the decision. After all, that is exactly the reason you were elected to the position that you are in — to represent the voice of electors in the administration of government business. You may have the benefit of factual knowledge or the personalities involved that your attorney is not privy to, which may influence your decisions. Your attorney may provide you with different options for your decision making and his or her analysis of the consequences of employing any one of those options; but at the end of the day, your attorney can only advise. The burden of the actual decision is on the elected official.

9. Look to Previous Records for Precedent

Your attorney may be on staff or retained as outside counsel while elected officials and staff experience turnover, whether due to term limits or normal staffing changes. In this way, the municipal attorney can be a resource of historical information to bridge information gaps between changes in personnel. Your attorney's institutional knowledge is invaluable. If he or she has provided advice in the form of a confidential memorandum, as mentioned earlier, this written record can save time and resources as new officials cycle into office.

Similarly, if your municipality changes legal counsel, the new attorney will still have access to these interpretations and analyses of previous counsel. This written record can save significant time and resources.

10. Use Your Attorney As a Go-Between

Your municipal attorney can serve as a liaison between staff, elected officials, and other government entities. In this role, he or she may be able to bridge communications between various parties and entities, facilitating more efficient negotiations, or gaining a perspective that would otherwise be difficult to obtain. In negotiations between a municipality and other governmental entities, the respective elected officials of each entity may give direction to their legal counsel as to the desired outcome and leave it to the attorneys to accomplish the result.

Because your attorney has a duty to maintain attorney–client confidentiality, often you may be able to speak to your attorney in confidence without risk of the conversation becoming public. As a result, you have access to advice without the potential for adverse public repercussions.

For example, say you are an elected official and note an item on your upcoming agenda involving an issue that you do not quite understand, need clarification on, or generally have questions about. You may call your municipal attorney ahead of time to address some of these issues so that you do not have to ask them in a public setting or convene an executive session for the purpose of receiving legal advice.

Or perhaps you notice an item on the agenda and believe you may have a

conflict of interest if you participate in a vote on it. You might discuss this possibility with your municipal attorney in advance of the meeting so that you are not put in an awkward position if you have to make this call during the public meeting.

11. Stay Up to Date on Changes in Municipal Law

Your attorney can be a resource for addressing changing practices and laws affecting municipalities.

Your attorney is obligated to participate in continuing legal education, but he or she may also attend conferences specific to municipal issues, such as those hosted by the Colorado Municipal League (CML). Through these events, your attorney gains access to other municipal attorneys and other practices of municipalities, which he or she can bring back to your municipality to consider.

CML also hosts an attorney listserv, where municipal attorneys can consult with other municipal attorneys. This is a tremendous resource to your municipal attorney — and your municipality — in an area where the law does not always provide specific guidance or address every issue a municipality may face.





SOLVING THE MYSTERIES OF THE LAW

THE INTERNATIONAL MUNICIPAL Lawyers Association, better known as IMLA, began in 1935, with some attorneys from cities around the country hoping to find ways to coordinate legal strategy and develop educational programs for city legal departments. The organization envisioned by its founder Charles Rhyné continues today as a source of learning, advocacy, and commentary in support of the common purpose honored by municipal lawyers primarily in the United States and Canada: to serve the public interest. Like the Colorado Municipal League, other state leagues, and state associations of counties, IMLA is engaged in a mission to help local governments function more effectively, more completely, and more fairly.

Sometimes that objective requires that IMLA and its partners speak forcefully, taking a stand in opposition to national, state, or provincial authority to fight for the rights of local government constituents against overreaching policies and mandates that undermine local autonomy. While IMLA does not engage in legislative lobbying, it does marshal its resources to support local governments and

local government issues in the courts, and is justifiably proud of that tradition. IMLA's advocacy has often placed it and its members squarely within the weightiest debates challenging national, state, and local policy formation. IMLA has had the honor of adding its voice to the discourse in the U.S. Supreme Court, federal circuits, and state supreme courts, drawing upon the skills of its own members, as well as on those of many of the most talented appellate practitioners in the private sector who feel compelled to support the local cause. Even in those cases in which local governments would have preferred a different result, IMLA often sees its voice has helped shape the result to form a better outcome than one if it had been silent. In several cases over the past few years, the U.S. Supreme Court has narrowed a decision from one that could have been expansive and damaging to local government to one that focused its result to yield a more favorable effect.

But it is in a much more modest setting that IMLA and its members arguably make their greatest contribution. While the pronouncements from

the courts — whether relating to free speech, gender-based rights, voting, gangs, privacy, search and seizure, and myriad equally seminal principles — will no doubt influence our lives, there is work to be done at home. Far from the high-profile questions elevated within marble and granite at the High Court are the day-to-day issues that will never merit bold headlines. These are the less-esoteric subjects — schools, zoning, code enforcement, traffic, public safety, and the like — for which IMLA's constituents most require rapid and effective solutions.

In that regard, IMLA and its members, through a remarkable spirit of cooperation and shared purpose, make available to one another their own best thinking, however obscure the subject. Through a vibrant listserv, superlative webinars, articles, and conference presentations, it is collaboration that, like a rising tide, lifts all boats. What IMLA offers expands upon and supplements what state organizations provide in several ways. Ideas and practices common in one state may be new or outdated in another. Learning from attorneys around the country helps broaden a

knowledge base that inures to the benefit of the governments the attorneys serve.

An example of this leadership can be found in Colorado, where Chris Daly, Arvada city attorney and IMLA Colorado chair, leads an outstanding office. Daly approached IMLA this past year to discuss how it might integrate legal assistants into its programming. Daly and his legal assistant, Sherie Farstveet, exemplify how integrating paraprofessionals into the practice of law and implementing innovative management practices allow governmental law offices to do more with less; i.e., how we can learn to increase productivity at a lower cost. Through Daly and Farstveet's leadership, IMLA now has a functioning group of legal assistants with plans to develop and formulate models for other offices to use in managing the governmental law office to trim costs and increase productivity. IMLA hopes to work with Daly and Farstveet during the coming year to expand on their ideas for this group.

Local government leaders want to do the right thing. Their commitment to their communities and improving the lives of their constituents drives the formation of important policies and responds to local problems unlike at any other level of government. Local government leaders rely on their lawyers for advice and help in setting policy goals and running their governments. Where an attorney, like any other advisor, has a broad range of knowledge and experience gained either from personal experience or learned from others, the client is better served.

As an IMLA member, a local government legal department can access a wide range of information tailored to the practice of local government law. Each year, IMLA provides at least 40 Distance Learning programs that offer Continuing Legal Education (CLE) credits at a subscription cost that fits virtually any budget. Many of IMLA's members invite their clients to

participate in the programming and use that opportunity as a springboard to provide advice on critical issues or important cases. These programs range from issues associated with land use to employment law, and focus on evolving legal concepts and issues.

Nevertheless, there can be disrupters that destroy any relationship.

There are a couple of basic causes for tension in the relationship between governmental attorney and client with some very basic solutions.

The first is not understanding roles. Despite elemental simplicity and an easy fix, failing to understand the role of the attorney and the role of the client leads to many problems between government client and attorney. In a typical council-manager form of government, the attorney can either be appointed by the council or the manager. In either scenario, the appointing authority needs to identify what expectations it has for the attorney. A contract or retainer agreement (such as the IMLA Model Agreements) that specifies those expectations helps to guide the way, but so, too, does frank conversation regarding how and when the authority wants to receive advice. Under ethics rules, most municipal attorneys represent the government as a whole, regardless of who appoints them. So advice to one councilmember generally needs to be shared with the rest of the council. Similarly, advice to the manager affecting matters within the authority of the council needs to be shared with the council. In a mayor and council form of government, advice on the same topic will not differ whether given to the mayor or the council, regardless of who appoints the attorney, but executive and legislative privilege may prevent the advice from being shared. Space does not permit a full discussion of the potential for misunderstanding, but suffice to say both attorney and client need to understand their respective roles and develop realistic expectations.

The second possible cause for tension: Bringing the attorney into a policy discussion late generally complicates the attorney's ability to get to "yes." If a governmental policy requires the attorney to sign off or approve the policy for legal sufficiency, any leader who waits to seek counsel until the last minute invites disaster. Like a football play, everyone needs to know the details of what is planned and what is expected of them as a team player before implementing the play. So, too, in an organizational setting, the team must be informed and members must understand their roles before the play is called.

In the past, IMLA has provided consulting services to cities and towns interested in improving their legal function, determining whether to use inside or outside counsel for their regular legal needs, and in helping to evaluate budgets and processes. In performing these functions, IMLA uses its members to offer guidance to help local governments achieve their goals in serving their constituents. IMLA's mission seeks to support local governments by protecting municipal autonomy, limiting liability, and achieving success in serving their constituents.



AN INVITATION TO THE COLORADO SUPREME COURT LIBRARY

THE COLORADO SUPREME COURT Library (CSCL) was formed out of the Colorado Territorial Library, established in 1861, made an essential part of the formal government in 1874, and has served uninterruptedly ever since. Originally, the purpose of the CSCL was to serve the legal informational needs of the Supreme Court and members of the Bar. Today, it serves every judge in Colorado (regardless of jurisdiction), every licensed lawyer in the state (even if they have not joined the bar association), and every member of the general public (citizen or not).

The CSCL predates the Colorado Bar Association, University of Colorado and University of Denver law schools, and the U.S. Courts 10th Circuit Law Library, all of which provide a limited public service based upon location, mission, policy, and/or custom. The CSCL predates the establishment of county law libraries in Colorado, which have all now closed. It also predates the adoption of membership law firm libraries in Colorado, the last of which closed in Denver in 2014. Membership libraries were conceived to share law book collections exclusively among local attorneys and small firms who were unable to maintain their own libraries or who were too far away from the CSCL or a comparable collection.

These closures and limitations have created a vacuum, leaving the CSCL

as the only public law library in Colorado primarily charged with providing free expert legal information services to all.

The good news is that there is something for everyone at the CSCL.

For students and teachers, there is the Colorado Judicial Learning Center. Library staff manage this unique 4,500-square-foot interactive space for the Colorado courts, and it is free to the public, Monday through Friday, 8 a.m. to 5 p.m. The Learning Center offers 10 different exhibits, a dedicated space to take a photo in a judge's robe, and an introductory film. Taken together, this A/V-rich center interprets the Rule of Law through the experiences, and from the perspective, of our state's judges. Guided tours are available for noncommercial groups of 15 or more. Lesson plans are also available: Colorado Department of Education standards-based lesson plans for K–12, and 16 "Courts in the Community" lesson plans are designed around social studies and civics education topics. And coming soon, people will be able to play the Our Constitution Game online from home or classroom.

The Learning Center is a must-see for Colorado residents and visitors alike. To find out more about all that the Learning Center has to offer or for answers to other questions, visit www.cjlc.org or call 720-625-5100.

The Learning Center and the library are found inside the impressive Ralph L. Carr Judicial Center, located in downtown Denver between the state Capitol and the Central Branch of the Denver Public Library. Completed in December 2012, the Judicial Center boasts a beautiful neoclassical design with a stunning glass-domed atrium. Anyone interested in architecture will appreciate this Fentress design. The Judicial Center is home to the Colorado Supreme Court and the Court of Appeals, and it is named for Colorado's 29th governor, widely famed for opposing Japanese-American internment camps during World War II. A walking tour of the building includes a look into the courtrooms, and an interpretation of the 11 major works of public art made permanent in the Judicial Center pursuant to the Art in Public Places Act passed by the Colorado General Assembly in 1977.

Fundamental to our democratic society is the Rule of Law and the individual guarantees that flow from its principles. The Colorado Supreme Court Library contributes to this access to concepts of Justice by making legal information freely available to all. The professional staff of lawyers and librarians are available in person, by phone, or via email to answer questions about the law and the legal process. CSCL does so in a number of different ways, starting



with a publicly available catalog of holdings that can be found online at cscl.colibraries.org.

For the legal researcher, the collection contains multiple sources related to municipal and local law, including historical ordinances, building codes, and often litigated proceedings such as landlord–tenant disputes and small-claims matters. To provide just a glimpse of the coverage, a catalog keyword search for the term “municipal” yields 168 results, and 139 results for the phrase “local law.” In addition to making books available, the library offers free access to legal research databases. These electronic offerings cover official law, rules, regulations, law review articles, and much more.

While CSCL staff members cannot give legal advice, they can assist

researchers with search techniques and suggest related materials on given subjects. Chief Justice Directive 13-01 specifies the complete list of the legal research and reference services, and the few types of questions that cannot be answered. Access to that directive is available under the Supreme Court tab of the Colorado Judicial Branch website, www.courts.state.co.us.

Another service unique to this library is a virtual portal designed to help self-represented litigants navigate the legal system. It is called the Colorado Legal Help Center, and it is found online at www.coloradolegalhelp.us. It is a new service, created collaboratively with the Colorado Bar Association, Colorado Legal Aid, Colorado Access to Justice Commission, and various nonprofit

organizations, and designed to assist non-lawyers understand and navigate the legal process.

One additional archival collection must also be mentioned. This summer, the CSCL entered into a formal agreement with the Colorado Municipal League (CML) to curate all of the *amicus* briefs ever filed with the Colorado Supreme Court by CML on behalf of Colorado cities and towns. The CSCL is in the process of organizing these briefs for digitization, in support of permanent online public access. In the meantime, they can be copied at the CSCL just as they always have been at CML.

Whatever the interest in the law, the Colorado Supreme Court Library invites one and all to come by the Library when in downtown Denver — or virtually. CSCL is here to help!

A CONVERSATION ON QUASI-JUDICIAL AND EX PARTE ISSUES

The following is a transcript of a real-life (imaginary) conversation between a newly appointed municipal commission member and her municipal attorney, meeting over coffee for a little legal training.

(It could happen. And, if it did, it might go something like this.)

(Commissioner)

Thanks for the invitation to discuss legal issues! After I was appointed to the commission, my first thought was, "I cannot wait to delve into some ancient legal concepts."

(Attorney)

Of course, I think everyone feels that way. We will even sprinkle in some Latin later. Let's start with quasi-judicial issues.

My son has some Nike Kwazi high-tops; loves 'em.

Right. This is a little different. Quasi-judicial issues are those that apply or vary the legal requirements for a specific project, individual or property. Quasi-judicial issues involve the determination of the rights, duties, or obligations of specific people or property by applying the code or other law to the unique set of facts, all in the context of a hearing.

In contrast, think of an issue that affects the entire municipality, or a substantial portion of the population — that sort of issue is legislative — making law. Then, think of an issue that affects one homeowner, or one business owner, one particular party, or a singular piece of property — that sort of issue is quasi-judicial — applying the law to particular facts. For example, an ordinance authorizing short-term rentals in the municipality is a legislative issue. Your neighbor requesting a variance to build an addition to her home is a quasi-judicial issue.

It also may help to picture your commission acting as a judge, rather than as a legislator. The commission is not making or recommending new laws when it reviews a quasi-judicial issue, but it is rather applying existing laws to specific facts concerning one person or a discrete group of people rather than the entire neighborhood.

The most common quasi-judicial issues are zoning and land use decisions affecting an individual property. Other examples are



licensing hearings, for liquor licenses and marijuana business licenses, and hearings concerning nuisance abatement, towed vehicles, and tax liabilities.

I thought I was now a commissioner, not a "judge."

Well, think of it as if the entire commission is the judge, not just one single member. The decisions you make are important and can have a significant impact on your neighbors. Also, the commission's decision may be appealed to and reviewed by a higher court, just like a real judge's decision.

So, every time that we meet, we are having a public "hearing"?

Not necessarily. Sometimes the commission can be meeting to discuss and address a larger issue affecting the community, such as affordable housing or a change to a particular portion of the land use code. Often, the governing body will seek the input of the commission on these sorts of legislative issues, even though the ultimate authority to change the laws remains with the governing body. The commission acts as the "land use advisor" to the governing body, so they welcome your input on legislative topics. Meetings on these general topics are not "hearings," but they are open to the public. All of your meetings are open to the public.

But when a meeting does include a public hearing, the commission is required to give a certain amount of notice prior to the hearing; the notice period may depend on the type of quasi-judicial issue being considered. Also, all evidence that the commission considers must be presented at the public hearing.

OK. So now I know what a quasi-judicial issue is. Why is it important that I know that?

Because if an issue is "quasi-judicial," there are certain procedures required to afford due process to those individuals who may be affected by the decision.

You also need to make sure that with quasi-judicial public hearings, you are not having any ex parte communications.

A party at a commission meeting? Now we're talking! Tell me more about that.

Ha! I wish. It is not as fun as it sounds. Ex parte is an old Latin term meaning "from one part," or "concerning one party alone." An ex parte decision would be one decided by the judge or commission without requiring that all parties to the controversy be present. An ex parte communication is between the judge or commission and one party, and outside the presence of the other parties to the case, or affected individuals.

The prohibition against ex parte contacts in quasi-judicial hearings was developed to ensure that everyone with an interest in the case, and all members of the decision making body, hear the same evidence at the same time, from the same sources. It is to ensure basic notions of fairness and justice.

Wait. You're telling me that I have to block out my neighbors and friends who want to talk to me about something important? That seems wrong. I thought it was a good thing to talk to people, get the community sentiment — do my "homework" on an issue.

I know this all sounds frustrating, especially to a well-intentioned active community volunteer such as yourself. However, it is important to remember that this rule is designed to protect the rights of everyone involved: applicants, opponents, and other interested parties and residents who may be ultimately affected by your decision. It also ensures the opportunity for a fair hearing before unbiased decision makers, and that each of the other commissioners have the benefit of the same input.

I am still skeptical. What is the worst that could happen if I have an ex parte conversation?

Please don't give your lawyer a heart attack. This is actually a very important rule to follow. When a decision maker engages in ex parte discussions about a case, and then proceeds to participate and vote on the matter, anyone adversely affected by that decision (with legal standing, which we don't need to get into) could

appeal the decision to district court. If the appealing party proves that the commission failed to provide due process, the decision can be vacated and the matter sent back to the commission for a second look. Holding a second hearing is obviously costly, and creates a long delay for the applicant and for the community. And we did not even mention the negative press the city would inevitably receive.

Yikes! I wouldn't want to jeopardize the commission's decision. But what if someone says something to me before I tell them that I cannot talk about it? I cannot "un-hear" what I have already heard.

First, you would need to disclose the communication on the record, in as much detail as possible, at the beginning of the public hearing. If you truly and sincerely believe that the ex parte communication did not affect your ability to decide the case fairly, impartially, and based solely on the evidence presented at the hearing, you may be able to participate in the hearing after the disclosure. You and I should consult on this topic prior to the hearing. If you know that the ex parte communication has biased you, despite the fact that you have openly disclosed and discussed it, you should "recuse" or remove yourself from the hearing, discussion, and the vote.

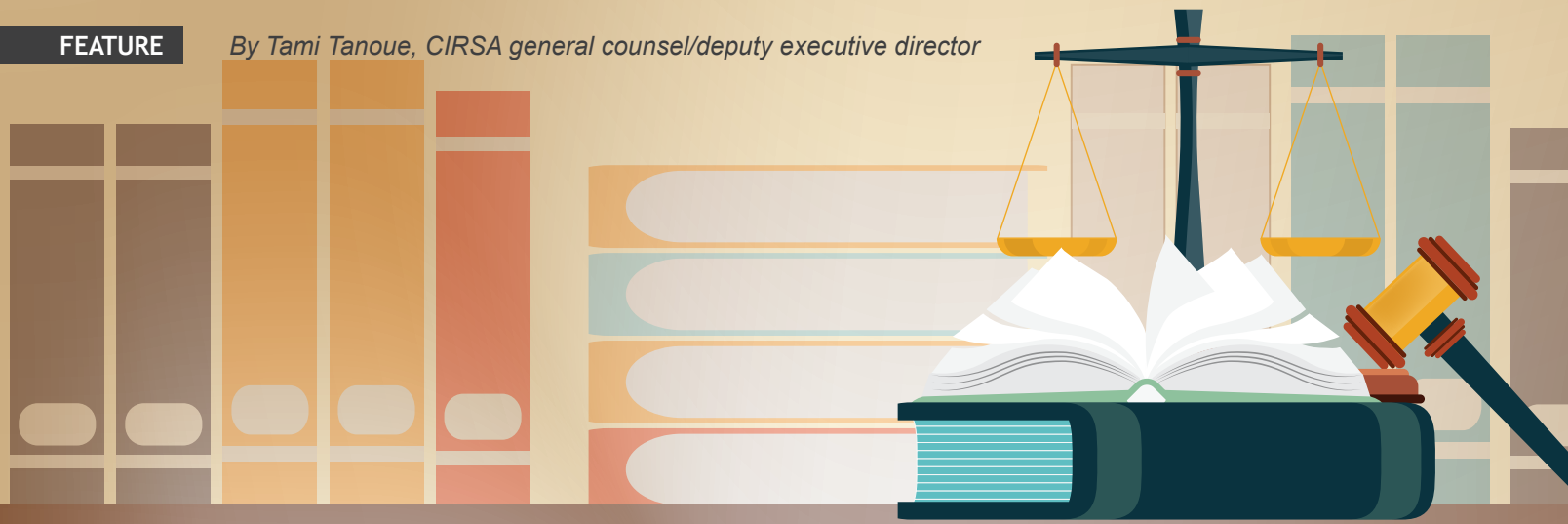
What if I have a question before a hearing that I really want answered going into the hearing? Is there anything I can do to try to get it answered?

You can contact staff, me, or your other municipal attorneys. We can determine the best way to address the question.

Anything else you think I should know?

Please know that your attorneys are not trying to be annoying or needlessly picky when we bring up these distinctions or cautions. These rules exist not only to protect you, but more importantly, they are in place to ensure the kind of fairness and due process our constitution was built upon.

And I forgot my wallet. How much cash do you have?



ELECTED OFFICIAL INVOLVEMENT IN PERSONNEL MATTERS

ONE OF THE MOST CHALLENGING issues faced by governing bodies is calibrating the appropriate level of elected official involvement in personnel matters regarding employees other than their own direct reports. Naturally, the governing body needs to maintain an appropriate level of oversight over those who report directly to it, such as the city manager or town administrator. But often, elected officials become aware of matters concerning employees who do not report to the governing body. When is involvement in such a matter appropriate, and when does it cross the line?

The Chain of Command

Municipalities are not typically run like military-style organizations. But every organization needs to establish and honor some kind of chain of command. This means that each employee reports to one supervisor, and each supervisor is empowered to deal with the issues raised by each employee that he or she supervises.

Furthermore, insofar as possible, the employee side of your organization should be established pyramid-style, with a decreasing number of personnel at each level up,

culminating in a very limited number of employees reporting directly to the governing body (most typically the manager/administrator, municipal attorney, and judge). A pyramid-style administrative organization maximizes the opportunity for personnel issues to be addressed at the appropriate level and minimizes the number of personnel issues that could otherwise divert the governing body from its most important responsibility of governance.

So start by taking a look at the “shape” of your organization. Does it have a pyramid structure to the extent feasible? Or does it look more like a many-legged centipede, with multiple personnel reporting directly to the governing body? Or are there multiple lines of authority, so that it is not even clear that there is a one-to-one relationship between each employee and a supervisor?

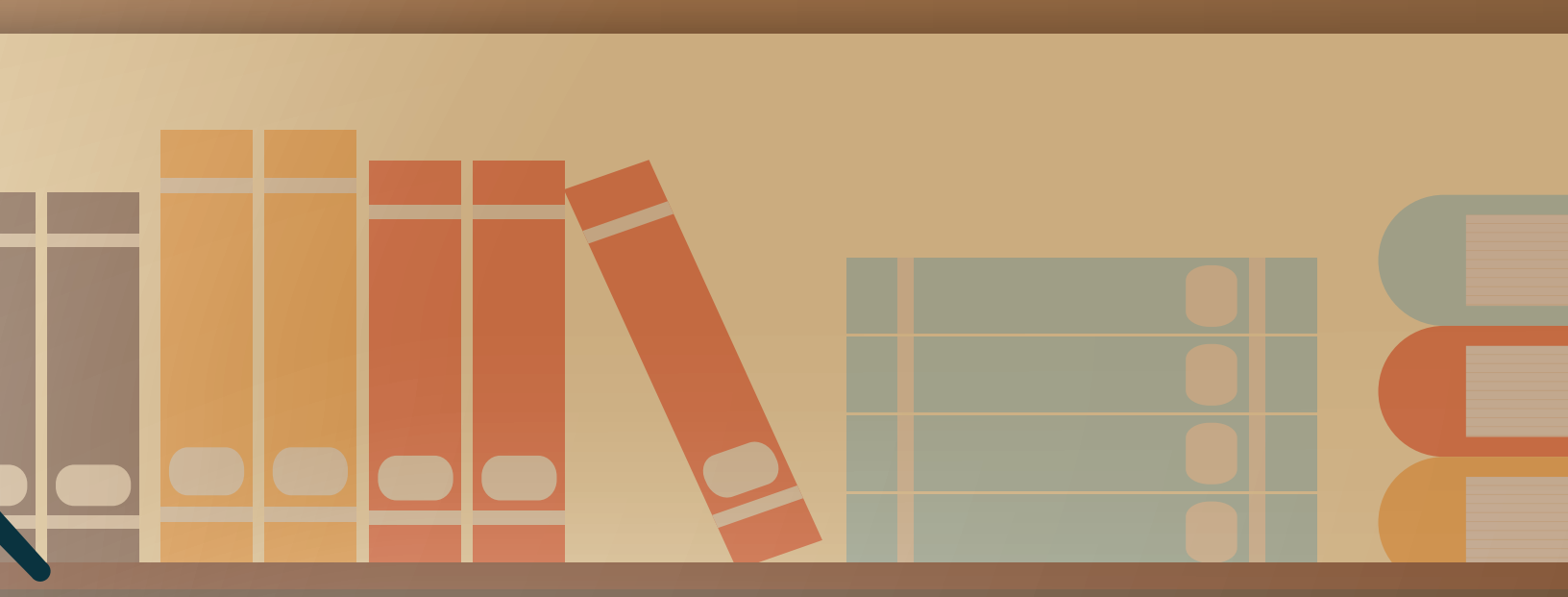
In municipalities that have a manager/administrator position in place, there is no excuse for having a messy chain of command. These cities and towns have committed substantial resources to the establishment of the ideal pyramid structure. If a municipality is too small to have a manager/administrator in place, then it may be

more difficult to create a tidy pyramid. But if there are more than a small handful of employees, it may make sense to begin planning for a manager/administrator structure, or at least seek to empower supervisory relationships that do not directly involve the governing body.

How to Create Organizational Chaos in One Easy Step

Chances are that, by charter, statute, ordinance, or otherwise, your municipality has in place a sound chain of command. But all it takes to destroy it is for one employee to skip over his or her supervisor (and perhaps other levels within the organization) to pull elected officials into his or her business. Or, if elected officials skip over managerial and/or supervisory levels in the organization to put them into the business of employees who are not their direct reports, the same terrible result is achieved.

Either way, by disregarding levels within the chain of command, one disempowers the levels that have been skipped over. Why should an employee heed his or her supervisor if it is clear that someone other than the supervisor is calling the shots?



If you are sensing that there are ineffective supervisory and/or managerial personnel in your organization, make sure that you have not contributed to the problems by participating in this disempowerment. Because if you have, then how can you fairly hold supervisory and/or managerial personnel accountable for the results? If your fingerprints are all over this mess, then a good portion of that accountability must rest with you!

Why Does This Happen?

How is it that elected officials sometimes find themselves becoming involved inappropriately in personnel matters? Most of the time, it is a good-faith desire to address something that you perceive to be a problem. People who are drawn to serve in elected office tend to be responsive, caring problem solvers. But inappropriate involvement can create more problems than it solves.

In a small number of instances, misplaced motives may be behind inappropriate involvement. It is not unheard of for a candidate for office to run on a platform of “getting rid of” one staff member or another. But be careful! In personnel matters, it is difficult for someone outside of the

situation to know all that is going on. There are likely many circumstances that are beyond your knowledge, and that warrant caution and a withholding of judgment.

Finally, is it even possible for an organization to have 100 percent employee satisfaction? It seems very doubtful that would even be an attainable goal! Take care in becoming inappropriately involved in a personnel matter because someone is not happy. That may lead to the impossible goal of ensuring 100 percent employee satisfaction.

What Level of Involvement in Personnel Matters Is Appropriate?

Certainly a governing body has an appropriate role in personnel matters. In directing a municipal manager (or other direct reports), it is appropriate for the governing body to establish and reiterate the organizational values that it expects him or her to follow. These values can include expectations regarding the fair treatment of employees and boundaries of conduct that must not be crossed. It is fair to ask whether the manager is ensuring that these values are reflected throughout the

organization, and whether complaint resolution processes are in place that will allow employee concerns to rise to the surface and be resolved at the appropriate levels in the organization.

Regular performance evaluations of the manager and other direct reports is another area where the governing body has the right and responsibility to be involved. Are you establishing a set of measurable expectations for your direct reports, and establishing means for gauging whether and how those expectations are being met? Those expectations can address personnel issues such as employee morale, turnover, engagement, productivity, etc. It is also fair to inquire whether the manager/administrator has in place evaluation/goal-setting/accountability processes for the rest of the organization.

The municipal charter or other local enactments may specify governing body involvement in certain personnel matters. For example, the governing body may be responsible for establishing an annual compensation plan, or for approving personnel rules and regulations. Make sure that elected official involvement, though, does not exceed that which is

required by the charter or other local enactment.

There are times when elected officials' direct involvement in a personnel matter may be both appropriate and unavoidable. If an employee comes to a councilmember or trustee and alleges that the manager or another direct report is engaging in unlawful harassment, that is not the type of complaint that can be ignored or turned back to the manager to address. In such an instance, it is critical to involve the municipal attorney, who will assist in determining the appropriate course of action. If a city or town is a CIRSA (the Colorado Intergovernmental Risk Sharing Agency) member, that organization also can work with the governing body and attorney to deal with such matters.

What Has This Got to Do with Liability?

Over the past several years, CIRSA has seen an upswing in employment liability claims among its members.

These claims typically involve allegations of wrongful termination, retaliation, or harassment/discrimination. These claims are never easy to settle. There is ill will on both sides. Those in charge must defend every detail of everything they did in connection with a personnel matter, so things get personal quickly. And, if elected officials are involved as decision makers, the matter can quickly become political.

Statistics on employment suits nationwide are pretty clear: the employee is more likely to win before a jury than the employer is. Why? Well, a typical jury member is more likely to be (or to have been) an employee than a manager/supervisor. That naturally shifts sympathies in favor of the employee's perspective. If an elected official is in the defendant's chair, then there is bound to be even less natural sympathy. And if the employer is a government ... well, you see the picture. How much sympathy will flow toward a government employer having to deal with an

underperforming employee versus an employee claiming mistreatment at the hands of the employer?

CIRSA's own experience is consistent with the national picture. It does not take a lot of cases to trial. When CIRSA does, it is usually because it believes its member did nothing wrong and has a good shot at winning. By and large, CIRSA does a pretty good job of assessing the risks of going to trial versus settling. The cases that CIRSA has lost at trial — where its member, defense counsel, and claims professionals called it wrong — have mostly been employment cases.

Conclusion

Dealing with personnel matters can be one of the biggest challenges an elected official can face. Follow the foregoing suggestions to ensure that involvement, if any, is happening at the appropriate level. Otherwise, you may find that your involvement is making things worse, not better, and exposing you unnecessarily to liability risks.

SPOTLIGHT

ABOUT CIRSA

CIRSA IS A PUBLIC ENTITY SELF-INSURANCE POOL THAT EXISTS TO ASSIST MUNICIPALITIES AND affiliated legal entities with their risk management needs. Starting with 18 member municipalities in 1982, CIRSA now serves more than 270 municipalities and affiliated legal entities, providing comprehensive liability, property, and workers' compensation coverages along with a package of customizable optional coverages. CIRSA works solely with Colorado municipalities and their affiliated legal entities, and tailors its services and training programs specifically to their distinctive needs.

One of CIRSA's unique benefits is early involvement and partnership with members in situations that, if handled improperly, can turn into liability claims. Through its "employment liability hotline," CIRSA offers personalized, expert service and works with supervisors, managers, and governing bodies in identifying and managing such situations to reduce or eliminate the potential for liability. We also provide municipality-focused training on a variety of issues, including topics pertinent to elected officials, employment issues facing managers and supervisors, and liability, as well as safety and loss control topics.





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COLORADO MUNICIPAL LEAGUE

Synopsis on Title 31 of the Colorado Revised Statutes

THE FOUNDATION OF MUNICIPAL LAW

Introduction

The Colorado Revised Statutes are the codification of the laws enacted each session by the Colorado General Assembly. Title 31 of the Colorado Revised Statutes provides the authority and basis for many municipal government functions, and it is the foundation of municipal law. Pursuant to Title 31, municipalities have the power to incorporate and organize into cities or towns; to elect officers; to annex and grow in area; and to exercise many government functions.

This article provides an overview of Title 31 and summarizes the topics included in this Title. Title 31 is separated into 35 smaller sections called Articles. The editors of the Colorado Revised Statutes also have divided Title 31 into four headings: organization of a municipality, elections, annexation, and powers and functions of cities and towns. For consistency and ease, the structure of this article follows that format.

A brief caveat is necessary before delving into the substance of each section. Each of these sections, and even individual statutes, provides sufficient material for a standalone article. Thus, this article is intended to be a high-level summary of the material contained in each of these sections.

Organization of a Municipality

It makes sense from an organizational standpoint that the first four articles of Title 31 address the corporate structure of a municipality. A municipality needs this corporate backbone to function as a legally recognized entity.

Article 1 defines when a municipality is characterized as a town or a city. The Article explains the process for reorganizing from a town to a city based on an increased number of inhabitants. Article 1 also discusses the process to move from a city to a town.

Article 2 addresses the petition for incorporation, the incorporation election, and what work needs to be done to get the municipality up and running. Importantly, the process to create a constitutionally authorized “home rule” municipality is provided by this Article and, upon such incorporation, some of the requirements of Title 31 may be superseded or modified by the home rule municipality.

If a municipality decides to cease operations, Article 3 provides a process for discontinuance or abandonment.

Article 4 addresses the organizational structure of the municipal corporation. This Article explains the duties of mayors, officers, city clerks, city treasurers, and chiefs of police. This Article describes the organizational structure for the city manager form of government. This Article also provides the organizational structure for statutory towns.

Municipal Elections

After a municipality is formed, elections are necessary to elect the governing body’s officials and to submit certain legislative matters to a public vote. Article 10 of Title 31 is also known as the “Colorado Municipal Election Code of 1965.” This article provides the framework for municipal elections, and it covers the

following topics: electors, nominations for municipal office, election judges, notice for elections, conduct of elections, voting, election contests, and election offenses.

A municipality should examine Article 11 for the procedure related to municipal initiatives, referenda, and referred measures.

Annexation

Article 12, known as the “Municipal Annexation Act of 1965,” addresses the process for growth of a municipality through annexation. It also addresses the situation where there are conflicting annexation claims.

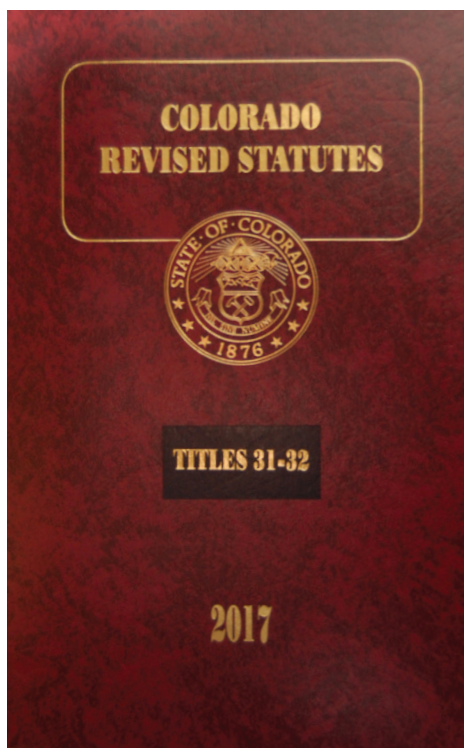
The remainder of Article 12 addresses other annexation and disconnection issues, such as dissolution and annexation and consolidation and annexation.

Powers and Functions of Cities and Towns

Once the municipality is formed and officials are elected, municipal powers will be exercised. The largest section of Title 31 addresses the legislatively permitted powers and functions of municipalities. This section covers Articles 15 through 35 and provides the procedure related to exercise of municipal powers, adoption of ordinances, taxation and finance, bonds, planning and zoning, public improvements, fire and police, utilities, and water and sewage.

Exercise of Municipal Powers

Subject to exceptions afforded a home rule municipality, a municipality can exercise only such powers as are granted to it by its charter or by the general law of the state. Article 15



enumerates the powers granted to municipal corporations by the general law of the state. These granted powers include the vesting of powers given to a corporation: sue and be sued; enter into contracts; and acquire and hold property.

Article 15 also enumerates the financial powers of the municipality: to control the finances and property of the corporation; to appropriate money and provide for payment of debts and expenses; to levy and collect taxes; and to contract indebtedness.

A municipality's powers to promote public welfare, provide for safety, and declare and prevent nuisances are set forth in Article 15. The Colorado legislature has granted numerous police powers to municipalities, including regulating of police, declaring nuisances, preventing disturbances, regulating pawnbrokers, establishing jails, and controlling fires. Article 15 also addresses the municipality's authority to generally regulate businesses.

Municipal building and fire regulations are authorized in this Article, along with the authority to own, manage, and dispose of public property and improvements.

Ordinances

The processes for adopting ordinances to exercise municipal government are set forth by Article 16 of Title 31.

Taxation and Finance

Article 20 of Title 31 addresses a municipality's finances in two parts. Part 1 provides the power to levy taxes and to offer certain incentives. Part 2 controls a municipality's fiscal procedures, budgeting, and appropriations, and Part 3 deals with the responsibilities of the municipal treasurer.

Bonds

Article 21 addresses municipal bonds — the funding of bonds, bond election, form and maturity of bonds and taxes for interest and redemption. This Article also covers refunding bonded indebtedness, payments of matured special assessments, and payment by tax levy on petition of electors.

Planning and Zoning

One of the major responsibilities for municipalities is land use planning. These issues are addressed in Article 23 of Title 31. This Article grants the municipality the authority to plat its community into lots for development as set forth in Part 1. It provides for a planning commission and delegates the duty of the commission to make and adopt a master plan for the development of the municipality. The master plan is the advisory document to guide land development decisions.

Zoning authority is conferred by Part 3 of Article 23, and this Part provides the authority to regulate and restrict height, number of stories, and size of buildings and other structures; the percentage of the lot that may be occupied; and the location and use of building structures, and land for trade, industry, residence, or other purposes.

Public Improvements

Article 25 addresses a municipality's ability to develop, construct, and maintain public improvements. This Article is extensive, and it covers a wide range of options for solving community problems related to public improvements. Article 25 provides the authority to create separate entities to address unique issues faced by municipalities. These separate entities include urban renewal authorities, improvement districts, downtown development authorities, and business improvement districts.

Article 25 also gives municipalities the authority to establish and regulate parks, pedestrian malls, and cemeteries.

Fire and Police

Articles 30, 30.5, and 31 provide authority for the municipality to establish a paid fire department, paid police department, or paid street department. Municipalities are permitted to adopt civil service regulations pertaining to such departments. Article 31 addresses the fire and police pension association, which is an independent public body.

Utilities

Article 32 addresses public utilities, including railway, gas, electricity, solar, and telephone, as well as the process for passing a utility plan ordinance.

Water and Sewage

Article 35 covers a municipality's authority to supply its residents with water and sewage, and enumerates the municipality's rights for accomplishing that purpose.

Conclusion

This discussion of Title 31 is a broad overview of the authority and basis for many municipal government functions. Hopefully, it provides a starting point to perform a more in-depth review of municipal law questions.

PUBLICATIONS ON MUNICIPAL GOVERNANCE

TO PROVIDE MEMBERS WITH THE BEST INFORMATION AVAILABLE, CML REGULARLY UPDATES ITS more than two dozen reference guides and best practices publications, as well as publishes new research. An annual research agenda is developed by the CML Research Committee composed of member representatives.

It is important to note that one copy of each of the publications was mailed to member municipalities upon publication. Additional copies, as well as downloadable PDFs, are available for purchase on the CML website, as is a complete catalog with descriptions.

The first resource that should be mentioned is *Colorado Municipal Government: An Introduction*. This 2013 publication provides a general overview of the structure and function of Colorado municipal government. Newly elected officials and municipal employees new to the state will find guidance on how municipal government is organized, legal powers of the municipality, municipal procedures, and an introduction to home rule government.

Along the same lines, *The Handbook for Appointed Municipal Boards and Commissions* provides a general guide to both veteran and newly appointed members of municipal boards and commissions. It features not only statutory requirements and duties of board members, but also a compilation of ideas and experiences of a large number of municipal officials that offer citizens serving on boards and commissions the benefit of their perspective and experience. Among the many topics it covers are procedures on conducting meetings, ethics, quasi-judicial proceedings, and compliance with open meetings laws. While the current edition from 2009 is valuable, an update should be expected in 2018.

CML offers *Ethics, Liability, and Best Practices Handbook for Elected Officials* from CIRSA (the Colorado Intergovernmental Risk Sharing Agency). The handbook provides an overview of some of the common liability issues facing elected officials, as well as suggestions for maximizing effectiveness and reducing liability. It is an important source of information for newly elected officials written by two of the leading legal authorities on municipal ethics and liability.

Every Colorado municipality is required to employ a municipal clerk, a key staff member for the functioning of each city and town. *Colorado Municipal Clerk's Reference Guide*, updated in 2017, provides a general guide to the duties of a municipal clerk. The publication covers the full range of duties, including elections, public records, and meetings of the municipal governing body. Clerks also rely heavily on *The Election Book*, which provides guidance on conducting municipal elections, explaining both the Municipal Election Code and Calendar. It provides information on special elections, bilingual election requirements, and an overview of coordinated elections. A wide variety of issues are addressed such as candidate eligibility, write-in candidates, election judges, term limits, and vacancies.

Speaking of elections, CML's *Municipal Candidates Guide: Serving Your Community through Elected Office* is a brief overview of the roles and responsibilities of a municipal elected official. It provides a thumbnail sketch of basic municipal services, budgets, term limits, ethics, and open meetings as well as candidate qualifications and other facts a potential candidate should know when running for office. This is available for free at www.cml.org/candidates.

One of the most important decisions made by an elected governing board is the hiring of a local government manager. The position has a major impact on not only the organization, but on the community as a whole. This "how-to" publication, *How to Hire a Local Government Administrator*, offers a step-by-step guide to the search and hiring process, along with sample job announcements, position descriptions, and employment agreements. This is another publication that is available for free, visit www.cml.org/how-to-hire.

Other publications run the gamut of issues, from affordable housing to community policing, historic preservation to liquor and beer, TABOR to home rule.



INTERGOVERNMENTAL AGREEMENTS

Introduction

Intergovernmental agreements, commonly referred to as IGAs, are contracts between or among government bodies. While Colorado local government law contains only limited examples of *mandatory* inter-local contracting, it contains strong constitutional and statutory provisions that authorize and encourage *voluntary* inter-local contracting. Thus, cities and towns enjoy both flexibility in determining for themselves whether it is appropriate to enter into contracts with other governments, and certainty in a solid legal foundation for doing so.

This article provides an overview of Colorado's framework for local government IGAs, along with practical tips and a brief discussion of two common types of IGAs. The first two sections discuss the legal authority for local governments to enter into IGAs, and related issues concerning drafting and enforcement. The third section highlights the specific authority for joint planning IGAs and certain types of emergency services IGAs.

Authority for IGAs

Colorado law encourages governments to utilize IGAs "to make the most efficient and effective use of

their powers and responsibilities."¹ It states governments may cooperate and contract to provide "any function, service, or facility lawfully authorized to each" of the parties.² It is not necessary that each government be authorized to perform the activity agreed upon in the IGA within the other government's jurisdiction; it is enough that each party could do so within its own boundaries.³

This extraordinarily broad grant of authority enables governments⁴ to carry out or provide a wide array of services or facilities jointly. How wide? In practical terms, an IGA can concern almost any area of local government

¹ C.R.S. § 29-1-201.

² Colo. Const. Art. XIV, § 18(2)(a); C.R.S. § 29-1-203(1).

³ *Durango Transp. Inc. v. City of Durango*, 824 P.2d 48 (Colo. App. 1991). In this case, the Court examined an IGA between Durango and La Plata County for the City to operate a mass transit system between areas in the City and the County. The IGA was challenged on the basis that the City was not authorized to operate the mass transit system beyond its municipal boundaries without PUC authority. The Court upheld the validity of the IGA, noting that the City only need possess the authority to provide the service within its own jurisdictional boundaries.

⁴ Colorado's IGA powers are available to any "government," which includes any agency or department of the state or federal government and any "political subdivision" of the state, including but not limited to any city, town, county, or special district.

activity — utilities, public safety, financing, other public services, and many more areas. This broad grant also enables cooperative thinking and approaches — “Anything we can do, perhaps we can do better together.” And it enables governments to share resources — the small town with a limited budget and staff can pursue an IGA with its big-city neighbor for provision of services on an as-needed basis.

In complement to this authority to carry out functions and provide services and facilities jointly, the IGA laws also authorize local governments to share costs, as well as impose taxes and incur debt jointly. Thus, for example, two towns may agree to share the costs of street improvements for a road along their common boundary. Similarly, two cities that share a treatment plant may agree to fund an increase in capacity, and charge their customers related fees jointly. C.R.S. § 29-1-203(1). Note, this provision does not expressly mention fees; however, IGAs for joint construction and use of shared facilities often provide that the parties will charge fees to their respective customers.⁵

In addition to authorizing IGAs among existing governments, Colorado law also authorizes governments to

contract to create a separate legal entity for the joint exercise of a function, service, or facility.⁶ Some examples include IGAs for creation of separate authorities for provision of dispatch or other communication services, regional drainage services, and emergency services.

Contracting Nuts and Bolts

Under Colorado statutes, an IGA must “set forth fully the purposes, powers, rights, obligations, and the responsibilities, financial and otherwise, of the contracting parties.”⁷ If other laws set out special requirements for the type of contract, those specific requirements control.⁸ For example, a contract that establishes a separate governmental entity must contain provisions to establish the entity’s board of directors.⁹

The desired level of specificity — and for that matter, certainty — is often the subject of much negotiation in view of the purpose of the IGA. So, too, is the length of the contract. Each party should pay close attention to whether specificity or, in contrast, generality, is best, and whether the agreement is short or long term. In a multiple-party IGA, consideration must be given to what happens when one party exits the agreement. May the other parties

continue, or should the IGA terminate? And, if the agreement continues, how are costs reallocated? The duration of an IGA is most directly a function of its purpose; however, care must be taken in consideration of the options, ranging from no fixed period and terminable at will to “the longest term permitted by law.” TABOR compliance must be achieved for any IGA that creates financial obligations for future fiscal years.¹⁰

IGAs typically are negotiated by local government elected officials or staff, and pertinent requirements of the Colorado Open Meetings Act and Open Records Act apply.¹¹ An IGA may be entered “with the approval of [the] legislative body or other authority having the power to so approve.”¹² Thus, the IGA is typically approved by the city council or town board, unless approval power has been previously delegated to the manager, administrator, or other staff. The IGA statutes do not require any particular form of approval action, but a resolution or ordinance is typical and one or the other may be required for certain subjects, or by state or local law.¹³ Approval of certain types of IGAs also may require specific public process, such as public notice and a public hearing.¹⁴ In short, once an IGA is ready for adoption, care must be taken to confirm who must actually

5 C.R.S. § 29-1-203(1). Note, this provision does not expressly mention fees; however, IGAs for joint construction and use of shared facilities often provide the parties will charge fees to their respective customers.

6 C.R.S. § 29-1-203(4); C.R.S. § 29-1-204.

7 C.R.S. § 29-1-203(2).

8 C.R.S. § 29-1-203(3).

9 C.R.S. § 29-1-203.5(1)(b)(II).

10 Most commonly the IGA will include a provision stating any financial obligations in future fiscal years are subject to annual budgeting and appropriation.

11 See C.R.S. § 24-6-402(2); C.R.S. § 24-72-201, *et seq.*

12 C.R.S. § 29-1-203(1).

13 See, e.g., C.R.S. § 31-23-227(2), requiring an ordinance.

14 See, e.g., C.R.S. § 29-20-105. This statute authorizes the joint adoption of a comprehensive development plan “after notice and hearing.”

approve the IGA and how. The parties also must confirm their proper signatories. Finally, attention should be given to the effective date and related provisions. This is particularly true for multiple-party IGAs, where significant time may be required for each party to process and sign the IGA.

Once properly executed, IGAs may be enforced like other contracts, subject to contract claims and defenses. The IGA can provide otherwise and, for many IGAs, care should be taken to consider the parties' enforcement rights in view of the agreement's purposes. Often, IGAs do not lend themselves to a claim of damages for breach because damages may be difficult to determine or hard to prove. Moreover, the parties may agree on the intent in the event of breach is not to create liability for money damages to the potential detriment of the taxpayers but to obtain compliance. Therefore, the IGA may limit remedies to injunctive relief or termination, rather than damages. IGAs also present unique enforcement issues with respect to TABOR compliance and indemnification. While governments commonly will require an indemnification clause — broadly, an agreement to assume the liability of another — in contracts with their private vendors, such a clause may not be enforceable as against another government.

Specific Types of IGAs

As noted above, governments may enter IGAs with respect to “any function, service, or facility.” Two of the more common types of IGAs include the following.

Joint Planning IGAs

In addition to the general authority for IGAs found in the Colorado Constitution and statutes, there are specific statutes enabling joint planning and land use regulation. For example, under Title 31 of the Colorado Revised Statutes (C.R.S.), a municipality may by ordinance enter into an IGA with the county for joint participation in land use planning, subdivision procedures, and zoning for a specific area.¹⁵ Under the Local Government Land Use Control Enabling Act,¹⁶ local governments also are authorized to cooperate or contract for purposes of “planning or regulating the development of land including, but not limited to, the joint exercise of planning, zoning, subdivision, building, and related regulations.”¹⁷ This can include the adoption of mutually binding and enforceable comprehensive development plans. IGAs in these areas often are vehicles for resolving disputes and achieving cooperation on topics such as annexation boundaries, location and intensity of development, and planning and responsibility for necessary infrastructure.

Emergency Services

Municipalities may contract with one another, a county, fire district, or other district or service authority for the provision of police, fire, and emergency services. This includes authority for a municipality to contract for law enforcement services from the county sheriff, including enforcement of municipal ordinances,¹⁸ or for fire services from a fire district or authority.¹⁹ Under one type of such IGA — often denoted as mutual aid agreements — governments may share police, fire, and emergency response resources. Colorado statutes provide specific guidance on the liability, chain of command, workers' compensation, and other issues that arise in the mutual aid context.²⁰

Conclusion

Effective cooperation among governments is not merely a goal, it is a necessity for municipal governing bodies and a basic expectation of citizens who look to their local leaders to resolve disputes, increase government efficiency, and address common issues. Municipal officials are encouraged to further familiarize themselves with the potential for using IGAs as a powerful tool to achieve success with other governments.

¹⁵ C.R.S. § 31-23-227(2).

¹⁶ C.R.S. § 29-20-101, *et seq.*

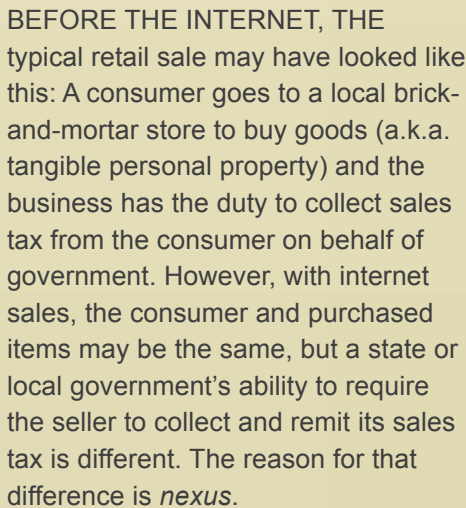
¹⁷ C.R.S. § 29-20-105(1).

¹⁸ C.R.S. § 30-11-410.

¹⁹ See C.R.S. § 32-1-1002(1)(d).

²⁰ C.R.S. §§ 29-5-103 to -110.

How State and Local Governments Shape the Legal Landscape of Internet Sales



business has an obligation to collect and remit the tax. Courts evaluate nexus to decide whether a state or local tax violates the dormant federal Commerce Clause, and the applicable nexus standard depends on the type of tax at issue. Sales tax nexus is the most strict, requiring that a seller has a physical presence in the taxing jurisdiction to oblige the seller to collect and remit sales tax.

goods over the internet. During that time, state and local governments have struggled to address both lost sales and use tax revenues and the impacts to resident business communities.

There are two paths to changing the physical presence nexus standard for sales tax: The U.S. Supreme Court could overrule *Quill* or the U.S. Congress could pass legislation. Below is an overview of the state and local government strategies that have emerged to get on one of these paths to changing the physical presence nexus standard for remote sellers, as well as the unique impact of the remote seller issue on Colorado's municipalities.

Removing Burdens to Compliance: The Streamlined Sales Tax Project

In the early 2000s, the Streamlined Sales Tax Project emerged as a multi-state effort to modernize sales and use tax by simplifying state statutes and updating tax administration.

The goal of the project was to reduce the burden of tax compliance. Easier sales tax administration and compliance also would make it easier for Congress to pass legislation to expressly change sales tax nexus.

Several factors, however, likely influenced other states to approach the remote seller issue differently. Federal statutory proposals introduced over the past seven years languished, leading to the conclusion that Congress was unwilling or unable to make policy in this area. So, starting in the late 2000s, many states self-initiated legislation to find immediate solutions.

The First Approach: Affiliate or “Click-Through” Nexus

New York challenged the premise of the physical presence standard in 2008 by adopting “click-through nexus,” where an in-state associate or affiliate who refers sales to a remote seller is the physical presence to create sales tax nexus for the remote sale.

Other states followed New York’s lead, but this tactic had two flaws: Not all remote sellers used an affiliate model to refer sales, and those remote

sellers with affiliates started canceling the associated contracts to eliminate the establishment of a click-through nexus. A new strategy then emerged to attack the issue from a new front: notification of consumer use tax obligations.

Colorado’s Approach: Consumer Use Tax Notifications (“Amazon Law”)

Colorado’s General Assembly took a unique approach to the remote seller issue in 2010 when it enacted House Bill 1193. The new legislation required non-collecting remote sellers making more than \$100,000 in annual gross sales in Colorado to notify Colorado purchasers that they are required to file a sales or use tax return for tax that has not been paid; send annual notification by mail to Colorado purchasers showing the total amount purchased over the previous calendar year; and file an annual statement with the Colorado Department of Revenue showing the total amount purchased for each customer for the previous calendar year. Failure to provide these notifications and statements subjects retailers to a \$5 or \$10 fine per instance. House Bill 1193 became informally known as the “Amazon Law.”

Before Colorado’s newly passed Amazon Law could even take effect in 2010, a direct mail and online industry group, Direct Marketing Association

(DMA), immediately challenged it as unconstitutional. At the U.S. Supreme Court level, DMA did not convince the court that the use tax notice obligation violated the Commerce Clause; however, the court found jurisdiction to decide the case on other grounds, and further, did not overturn *Quill*. *Direct Marketing Association v. Brohl*, 135 S. Ct. 1124 (2015). However, Justice Anthony Kennedy’s concurrence in the decision has created excitement within the community of state and local governments challenging *Quill*, because he noted the great economic and market changes over the past 25 years, as well as the revenue impacts, from the growth in Internet retail activities. Justice Kennedy also remarked that the “legal system should find an appropriate case for this Court to reexamine *Quill*.” The case was remanded back to the 10th Circuit, which upheld the Amazon Law’s notice and reporting provisions. *Direct Marketing Ass’n v. Brohl*, 814 F.3d 1129 (10th Cir. 2016). Therefore, with the legal challenge resolved, Colorado has begun implementation of the law.

Colorado’s consumer-use-tax notification approach uses existing consumer obligations to pay a use tax when no sales tax has been collected. However, for Colorado’s municipalities, implementing the Amazon Law is complicated. For statutory cities and towns, use tax

may only be applied to construction materials and vehicles, C.R.S. § 29-2-109. Therefore, use tax is not imposed broadly enough in statutory municipalities to apply to the goods traditionally sold through remote sellers. For the 70 home rule, self-collecting municipalities, Colorado's consumer-use-tax notification framework is set in state statute, so it does not automatically apply. Further, there are potential disadvantages to collecting use tax on remote sales. First, use tax by consumers will undoubtedly improve, but not match, the higher sales tax compliance rate. Second, the payment of use tax by consumers pursuant to an annual notification may prove unpopular.

Rejections of Physical Presence Nexus for Sales Tax: Economic Nexus Legislation

Following the Amazon Law litigation, another concept emerged to challenge the physical presence nexus standard: economic nexus. Economic nexus, first adopted in the mid-2000s for business activity taxes, was adapted to the remote seller issue by requiring internet sellers to collect and remit sales tax when their in-state sales exceed certain dollar thresholds.

For example, South Dakota passed legislation in 2016 requiring remote vendors to collect sales tax based on economic nexus. The legislation, Senate Bill 106, established two thresholds that trigger the obligation for remote sellers to collect and remit

sales tax: when gross revenues from in-state sales of goods (both tangible personal property and digitally delivered products) or services exceed \$100,000 annually; or when the retailer's separate transactions in the state exceed 200 transactions annually.

This spring, South Dakota sought a declaratory judgment (which is a legally binding determination by a court) on the question of the constitutionality of Senate Bill 106. On Sept. 13, 2017, the South Dakota Supreme Court concluded that *Quill* remains the controlling precedent on the issue of Commerce Clause limitations on interstate collection of sales and use taxes. On Oct. 2, 2017, South Dakota filed its petition for cert to the U.S. Supreme Court.

Colorado Municipal Governments and the Remote Seller Issue

The remote seller issue is especially important to Colorado's cities and towns because they rely heavily on sales tax. In other states, property tax generates 52 percent and sales tax 17 percent of total municipal tax revenues. In contrast, Colorado sales and use tax generates 69 percent of total municipal tax revenues, while property tax generates only 19 percent.

Municipal reliance on sales tax as the primary tax revenue source is likely the result of several Colorado constitutional provisions:

- Strong home rule authority allows self-collecting cities and towns to have a broader, more productive sales tax base.
- The Gallagher amendment reduces the property tax base, making it less productive.
- Sales taxes are relatively more popular, thus more likely to gain the voter approval required by the Taxpayer Bill of Rights.

Conclusion

Colorado's unique intersection of home rule jurisdictions, the limitation on residential property tax assessment, and voter approval for tax increases makes the accelerating revenue losses from remote sales an acute issue in Colorado municipalities. Colorado's residents have much at stake, due to a unique constitutional framework. Colorado's state and local governments must closely follow these developments to understand the benefits and consequences of changes in this quickly evolving area of legislation and case law.

This is a summary of the following article, which provides more discussion of sources and case law: Dianne Criswell and Grant Sullivan, The Remote Seller Issue in Colorado: Reexamining Quill and Bellas Hess, 95 DENV. L. REV. ONLINE 1 (2017), www.denverlawreview.org/dlr-onlinearticle/2017/8/10/the-remote-seller-issue-in-colorado-reexamining-quill-and-be.html.

MUNICIPAL LEGAL INQUIRY SERVICE

A KEY COMPONENT OF CML'S mission is to provide information and resources to its municipal members, including researching, tracking, and answering inquiries from its members ranging across a variety of topics.

Inquiries of a legal nature are forwarded to the CML law clerk or legislative counsel to answer. Their answers do not constitute legal advice, but can provide good background information for municipal attorneys or officials.

CML sorts legal information inquiries into 11 categories: elections, employment, government, marijuana, meetings, land use, taxes, records, regulations and licensing, telecommunications, and utilities. At the time of writing, CML had received more than 200 inquiries this year, with more than half of inquiries in the "government" and "elections" categories (not surprising in an election cycle).

The types of legal inquiries cover a broad spectrum of issues facing cities and towns. CML tracks legal inquiries to better understand members' needs, noticing that many municipalities are confronted with similar issues and obstacles. The tracking shows trending issues, many of which are seasonal. For example, elections are always a topic of concern for municipalities, but election inquiries increase as an election date approaches. In the spring, CML gets many questions regarding general election protocols and municipal election timelines, while in the fall CML receives many inquiries regarding the requirements for coordinated TABOR elections. There are many good election resources for our members, including publications

such as CML's *The Election Book*, the Colorado Secretary of State's Office website (for coordinated elections), and, most importantly, CML's municipal clerks' listserv.

Other areas of frequent inquiry are open public meetings and procedural/process questions. There is generally an uptick in these types of questions after the November elections. These questions revolve around the process and requirements of town meetings. Meeting inquiries tend to include questions regarding notice requirements, the keeping of records and meeting minutes, quorum, and public voting issues, as well as public comment questions. CML also receives many questions about how and when local governments can conduct emergency meetings that by

their very nature present a challenge with the public notice requirement.

CML's tracking also shows other popular areas of inquiry, such as the Fair Campaign Practices Act (FCPA) and marijuana. CML gets many questions regarding what is or is not a permissible activity under the FCPA. CML often directs those inquirers to the Secretary of State's official website, which has great resources on the issue. The inquiries on marijuana range from asking for example ordinances (available at www.cml.org under Issues > Marijuana) to seeking data.

CML will continue to track the questions municipal members encounter on a daily basis so as to better anticipate the issues local governments will face in the future.



COLORADO CITIES & TOWNS WEEK

SEPTEMBER 11-17, 2017



These are just a few of our favorite photos from the 2017 Colorado Cities & Towns Week.
Thanks to all of our member municipalities that participated!

Start planning now for the 2018 Colorado Cities & Towns Week, September 9-16.

COLORADO CITIES & TOWNS
www.coloradocitiesandtowns.org





Town of Limon, Colorado

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2017 Colorado Cities and Towns Week, September 11-17
All week we will be honoring different departments and their employees.

Library
Lucille Reimer, Library Director has worked for the Town since 1999. She has two regular part-time employees, Library Tech Brittin Keenen and Elizabeth Chinacek and a valued volunteer, Deidra Barb. The Limon Memorial Library serves the Limon area along with the Lincoln County Bookmobile and their Director Katie Zipperer and Library Tech Kevin Pickenill. The library hours are Mon-Thurs 10:00am to 8:00 pm and Friday and Saturday 10:00am to 2:00pm. The entire staff of both the library and the bookmobile are available to help you whenever needed. You can contact them at 719-775-2163 or limonlibrary@yahoo.com to make requests, renew books, or schedule computer lab use. Ebooks and eaudio materials are also available through the library website: lincolncounty.colibraries.org. Toddler Story Hour meets on Wednesday mornings at 10:30 a.m., a summer reading Program and other events are scheduled throughout the year. The Lincoln County Bookmobile makes stops bimonthly at Arriba, Genoa, Hugo, Limon, and Karval. The Limon Memorial Library is part of the AspenCat and Interlibrary Loan. It connects you with all Colorado Libraries. Visit them on Facebook or Twitter for the latest updates.

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GET TO KNOW ...

NANCY RODGERS

AURORA SENIOR ASSISTANT CITY ATTORNEY AND CML ATTORNEYS SECTION CHAIR

How did you end up in public service?

I received a job at Kissinger & Fellman two years after law school. With the guidance of Ken Fellman, I started to work with the firm's local government clients, mostly municipalities. That work opened my eyes to the concept and issues in municipal/local government law. In addition, I was able to meet attorneys who worked in-house for local governments. After about nine years, I was drawn to going in-house, and an opportunity to work for the City of Aurora presented itself.



What do you enjoy most about your position?

My co-workers both at the Aurora Police Department and in the city attorney's office. The legal geek in me also enjoys the challenges of the legal issues I am faced with every day, especially the constitutional issues. Finally, I really enjoy getting the opportunity to work with other local governments, the district attorney's office, the FBI, and the U.S. Attorney.

What is the most challenging part of your position?

The workload. I know there are views (which are not so kind and not, in my humble opinion, accurate) about government attorneys. But I have learned that if you want to do good work inside the city, there is a lot of work to be done. There are many projects that I would love to focus on, but time and capacity do not allow me to.

What are some exciting things going on in Aurora?

Aurora is a major city — both geographically and in population. The way Aurora operates is changing with the recognition that we are a major city. This change in employees' and citizens' mind-set from thinking about a small town/suburban community to thinking about a major city will

continue to bring exciting changes to the City of Aurora — in everything from municipal operations to policing to development.

What project or undertaking are you most proud of and why?

I have been with Aurora for just over two years. In retrospect, leaving Kissinger & Fellman and taking a job as Aurora's police legal advisor was a big undertaking, both personally and professionally. Although I had a solid background in municipal law, certain constitutional issues, and employment law, it was a steep learning curve to get used to working in-house on police issues day to day. The work pace was fast, and deliverables were needed quickly. It did not come without mistakes, but I am proud of my ability to be resourceful and work hard, especially in that first year when I was faced with a lot of new issues and challenges.

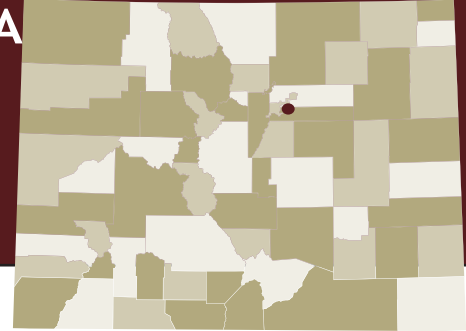
What do you see as current pressing issues in Colorado municipal law?

Marijuana continues to be a huge pressing issue that impacts everything — tax, licensing, policing, code enforcement, neighborhood services.



GET TO KNOW THE CITY OF AURORA

- The City of Aurora was incorporated on May 1, 1891
- Population: 357,340
- www.auroragov.org



I also think a significant pressing issue in Colorado is the efforts to limit, restrict, and/or modify the way our municipal courts operate. State impositions about mandated advisements, records expungement, and failure to appear, to name just a few examples, is having a huge impact on the ability of municipal courts to operate efficiently. It also, and more problematically, impacts the municipal courts' role in addressing lower-level crimes that have a direct impact on citizens' and local businesses' safety and welfare.

On a more national level, a pressing issue is the challenges to local authority and encroachment on that authority. I started to learn about these challenges when I worked on telecom issues. Now, I see it in the way the federal government is dealing with so-called sanctuary cities and imposing (or trying to impose) restrictions on local governments' police powers through Department of Justice regulations on grant funding.

What is the funniest or strangest thing to happen while at work?

That's hard. The Aurora Police Department command staff is a lot of fun to work with and, considering the serious nature of the work they do,

we laugh a lot. I received the picture below from the chief of police and the division chief as I was sitting ("stuck") in a meeting.



What website(s) and/or publication(s) do you refer to when seeking information?

I utilize CML and the International Municipal Lawyers Association's (IMLA's) resource pages. I also go to LexisAdvance often — both for cases and secondary sources. I like the *Colorado Lawyer* and *Municipal Lawyer* (IMLA's magazine), and *Police Chief Magazine*, a publication of the International Association of Chiefs of Police (IACP). I am on many listservs, including IMLA's and IACP's listservs for police legal advisors. I frequently go directly to court websites to look at filed cases and briefs. I'll admit I Google a lot of things to get me started.

I also rely on my professional network — a lot. I frequently call

attorneys that I have met from CML, IMLA, IACP, or other organizations to ask questions and get resources. I always try to pay that help forward, and help out those who call me with questions or requests for resources.

What book are you currently reading? Are you enjoying it?

I am reading Bruce Springsteen's biography and am definitely enjoying it (and not just saying that to impress Ken Fellman). I also am reading *Avenue of Mysteries* by John Irving (*A Prayer for Owen Meany* is one of my favorite books), but I am struggling getting into it.

Nancy Rodgers currently serves as the client group manager for the public safety group of the Aurora city attorney's office, supervising assistant city attorneys assigned to the departments focused on public safety. She also serves as Aurora's chief police legal advisor, providing legal advice to the chief of police, command staff, and supervisors on administrative and operational issues. Nancy conducts legal research on a variety of issues, including briefing relevant court cases and legislative actions affecting law enforcement. She assists in the defense of civil claims made against the police department. Prior to joining the City of Aurora, Nancy represented both public and private entities at Kissinger & Fellman PC. Nancy obtained her bachelor of arts in 1994 from Colorado State University, her master's in education from the University of Georgia in 1998, and her juris doctor from the University of Denver Sturm College of Law in 2004.

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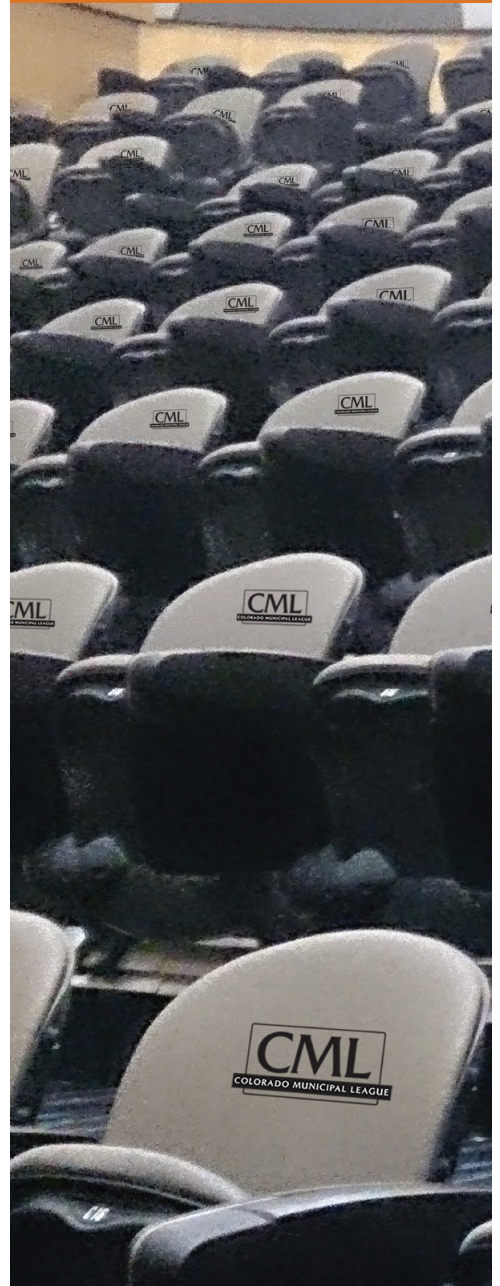


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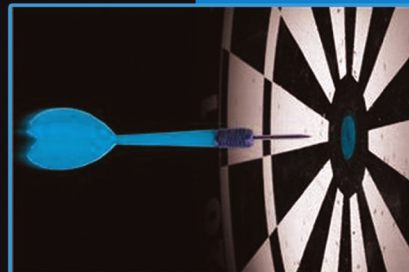


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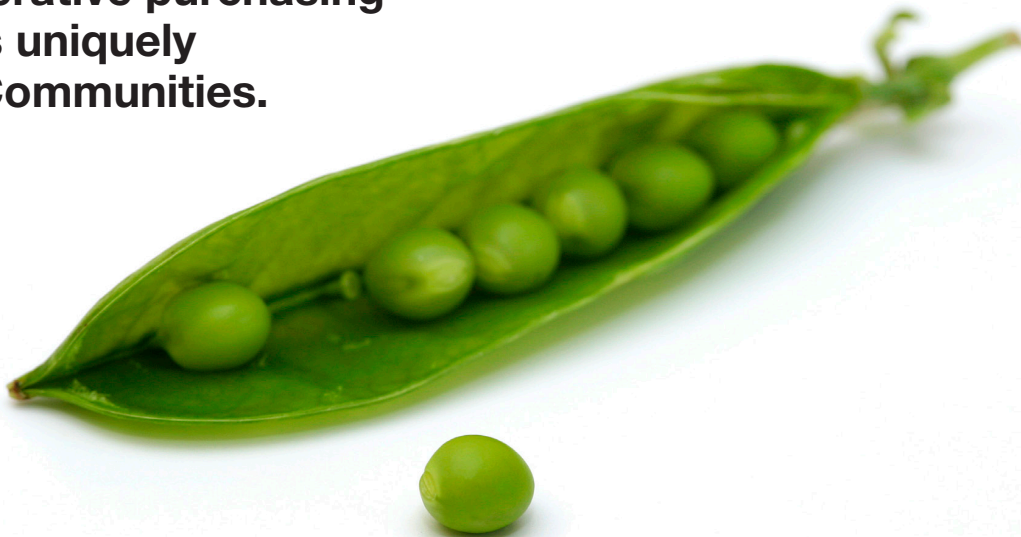
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