



OFFICE OF CORPORATION COUNSEL

Attorneys for the Municipal Corporation of Dunn County

Nicholas P. Lange
Corporation Counsel

Barbara Anne Fagan
Assistant Corporation Counsel

2020 Annual Report

Corporation Counsel Office

The Wisconsin Legislature, in Wis. Stat. § 59.42(1)(a) has authorized the creation of the Corporation Counsel Office in order to provide specialized legal services to the County Board of Supervisors and its committees, county departments, and county officials and, in Wis. Stat. § 59.42(1)(c), has authorized the appointment of assistant corporation counsels to aid in the performance of the duties of corporation counsel.

The Office of Corporation Counsel serves as the chief legal counsel for the county government, providing a broad range of legal services to the Dunn County Board of Supervisors and its committees and county departments and officials. In doing so, we strive to be available, accessible, and proactive, and to deliver legal services in a cost-effective and fiscally responsible manner so that more tax dollars can be used for the delivery of programs and services through other departments.

The Dunn County Corporation Counsel Office is staffed by 2 full-time attorneys and a full time legal secretary.

Corporation CounselNicholas P. Lange
Assistant Corporation CounselBarbara Fagan
Legal SecretaryBeth Stai

We have found that a fairly separated division of responsibility is most efficient, although both attorneys in the office are able to handle any matters that arise as may be necessary.

The Corporation Counsel has primary responsibility for drafting and reviewing ordinances, resolutions, and contracts, human resources issues, interpretation of regulations and authority, acting as general legal counsel, and supervising the Corporation Counsel Office.

The Assistant Corporation Counsel has primary responsibility for the prosecution of zoning violations, handling guardianship, protective placement, and involuntary mental commitment cases, representing the county’s interests in bankruptcy and bank foreclosure cases, advising and interpreting the law on Medicaid-related issues, and providing legal services to the Child Support Agency. The Assistant Corporation Counsel position is dedicated approximately 25-30% to Child Support Agency legal services.

The Legal Secretary drafts all legal documents for filing with the court, updates all ordinances after adoption and publication, and actively assists throughout each stage of all legal matters affecting the county, such as civil actions, in rem foreclosure, guardianship and protective placement cases, and mental commitment cases.

Professional Activities

In September 2019, Corporation Counsel Nicholas P. Lange concluded 3 consecutive 1-year terms as President of the Wisconsin Association of County Corporation Counsels.

During July and August, Corporation Counsel Nicholas P. Lange served as a member of a Wisconsin Counties Association workgroup for developing a comprehensive written document to provide guidance to counties, towns and cities on local government and health officer authority relating to pandemic and communicable disease response. The final written document was made available by the Wisconsin Counties Association in mid-August.

Impact of COVID-19

COVID-19 impacted the Office of Corporation Counsel. Remote working options have been utilized as much as possible. From mid-March to July 1st, the Courts were closed to the public, but still open for business. To protect the due process rights of respondents and comply with mandatory timelines for holding court hearings, our office worked closely with Court staff to determine the most effective alternatives to in-person hearings, such as ZOOM or conference bridges. As the duration of the COVID-19 pandemic extended and related state and federal laws changed quickly, the Corporation Counsel worked closely with the County Manager, Public Health, Human Resources, and Emergency Management to ensure that Dunn County was in compliance with the ever changing regulations.

Because the COVID-19 pandemic has been an occurrence unprecedented in most people's lifetimes, the authority of government at all levels during this type of emergency, and the authority of local health officers around the state as it relates to communicable diseases, received increased attention. This year, we researched and drafted the Declaration of Emergency that was adopted by the County Board in March. Many of the contracts we've reviewed relate in some way to the pandemic and local government response.

Duties of the Corporation Counsel Office

The mission of the Corporation Counsel Office is to facilitate and support Dunn County's goals by providing timely and effective legal services, to the highest professional standards, with integrity and respect to policy-makers and administrators. The Corporation Counsel Office is an integral part of Dunn County's operational system, attending to all civil legal matters relating to Dunn County and serving as legal counsel for the County Board of Supervisors, its Committees, Agencies, Commissions and Boards, Elected Officials, Departments and Department Heads. Pursuant to County Ordinance, the Corporation Counsel acts as County Manager when the County Manager is absent due to illness, vacation or a vacancy in the County Manager position. The duties and responsibilities of the Corporation Counsel Office are many and varied.

General Legal Counsel. Serving as legal adviser to and interpreting the authority, powers and duties of the county board, committees, boards, commissions, departments, offices, programs, agencies, and officers and employees of the county.

Involuntary Commitment. Representing the "interests of the public" in involuntary civil (mental and alcohol) commitments under Chapter 51 of the Wisconsin Statutes.

Wisconsin law authorizes legal actions for the involuntary commitment and treatment of persons with mental illness or alcoholism who are dangerous to themselves or others. Most involuntary commitments involve persons with mental illness, who, as a result of the commitment proceeding are court-ordered to participate in treatment on either an inpatient or outpatient basis. An involuntary commitment action begins by a petition for detention. Once commenced a commitment action can continue through probable cause hearing to end with a court hearing on a final order. However, negotiations and communication with the treatment team can also lead to dismissal or diversion agreements.

So far in 2020, there have been 45 legal actions for commitment of adults and 13 actions for the commitment of juveniles. Of that, sixteen individuals were placed on some type of involuntary order. In 2019, 89 actions were brought for involuntary commitment.

Once individuals are placed under commitment, there is ongoing prosecution to extend the commitment for up to one year at a time and to modify treatment conditions. Some individuals are under an involuntary commitment order for many years. Currently, there are 37 individuals under commitment. These cases have required 27 petitions for a hearing on the extension of the commitment and 17 petitions to move individuals to more restrictive settings. Although resolutions are often negotiated prior to a contested hearing on these matters, it takes a great deal of communication and cooperation with the Department of Human Services and law enforcement to ensure that the individuals committed are safe and receiving the appropriate treatment for their needs.

Ordinances and Resolutions. Drafting and reviewing ordinances, resolutions, and other legal documents related to the policies and directives of the County Board and committees. So far in 2020, we have brought to near-completion two substantial ordinance projects – (1) a complete rewrite of the land division ordinance, and (2) a complete rewrite of the manure management ordinance. You can expect to see these ordinances coming to the county board for consideration and action in the near future.

Guardianship and Protective Placement. Representing Dunn County in Guardianship and Protective Placement actions under Chapters 54 and 55 of the Wisconsin Statutes.

Guardianship cases – where our office brings a legal action to have the court appoint a decision-maker for an individual who is not competent – is where we have seen a decrease from 2019. In 2019, our office filed 40 guardianship cases and 19 cases for protective placement. In the first 8½ months of 2020, we have filed 11 guardianship cases and 4 cases for individuals to be placed under protective placement. The reason for this decrease is unclear. It may be the result of a several year long campaign from the ADRC for individuals to complete advanced health care directives, or it could be that due to COVID face-to-face assessments have stopped, with the unintended effect of decreasing guardianship proceedings.

There are 77 individuals under protective placement orders from Dunn County courts, all of which require monitoring by County staff. There is ongoing case management from the Department of Human Services, with the Corporation Counsel Office responsible for filing most motions relating to various matters, notifying all interested parties of changes in placement, and petitioning the

court annually for court review of each placement. There have been 17 changes to protective placements so far in 2020.

Contracts. Reviewing, drafting, negotiating, interpreting and enforcing contracts, memoranda of understanding and leases.

Child Support Program. Providing legal services and court representation to the Child Support Agency in fulfilling its responsibility to establish paternity judgments, child support and medical support orders, to enforce court orders through contempt proceedings, and to seek modification of child support orders where appropriate.

Time spent on providing legal services to the Dunn County Child Support Agency is reimbursed at 66% from the State of Wisconsin. In 2019, Barbara provided 593.6 hours of attorney time, with reimbursement revenue to the County of \$19,723.07. Although the final numbers have not been certified to the state, so far in 2020, Barbara has provided 263.71 hours of attorney time, reviewed 1,190 legal documents and attended 290 child support court hearings through June 30th.

Employment Law. Serving as legal counsel in Employment and Labor Relations, which encompasses: ensuring compliance with state and federal employment laws, regulations and rules; legal aspects of hiring, discipline and termination; labor negotiation, mediation and grievance and interest arbitration; representing the County in proceedings before the court, administrative bodies and various agencies.

In Rem Property Tax Foreclosure. Prosecuting the foreclosure of real property tax liens by action *In Rem* (against the property) and managing and selling tax-foreclosed properties under Chapter 75 of the Wisconsin Statutes, which authorizes tax foreclosure for past due taxes, interest, penalty, assessments and other costs. Our office files an In Rem tax foreclosure action each year. The in rem process can be generally broken down into two stages, the foreclosure process and the sale process.

The most recent tax foreclosure action was filed in 2019. The initial list of past due taxes, interest, and penalty was \$72,218.87 The office engages in outreach, letters, phone calls, meetings with property owners, and some home visits. Through this kind of outreach, \$64,017.36 was collected before judgment was taken. Ultimately, the county took judgment against 4 properties, which represented a total of \$39,531.76 back taxes, interest, and penalty, which had continued to accrue through the process. The 4 properties acquired have a total assessed value of \$285,000.

Once the judgment of foreclosure transfers ownership to the County, we start the sale process. We advertise properties for open and closed bid and show available properties upon request. In 2019, four properties were sold resulting in \$52,605 going into the general fund. There are anticipated to be at least 6 parcels for sale in 2020.

Public Records Law Compliance. Reviewing public records requests and providing legal opinions and advice to records custodians regarding release of public records.

Board and Committee Meetings; Parliamentarian. Attending County Board and committee meetings; serving as parliamentarian for the Board of Supervisors, providing interpretation and explanation of County Board Rules.

Claims. Reviewing claims against the county and its officials and employees; defending uninsured claims; monitoring the defense of and assisting outside counsel assigned by Wisconsin County Mutual Insurance Company to defend insured claims.

Bankruptcy. Representing Dunn County’s interests (on behalf of all County departments) in federal bankruptcy proceedings.

Bank Foreclosures. Representing Dunn County’s interests (on behalf of all County departments) in bank foreclosure proceedings.

Land Use and Environmental Issues. Acting as legal counsel on land use, land division, zoning, sanitation, mining reclamation and environmental issues, including enforcement of Dunn County’s ordinances through legal action.

Open Meetings Law Compliance. Reviewing meeting notices and agendas for compliance with, and providing legal opinions and advice regarding, the open meetings law under Sections 19.81 – 19.98 of the Wisconsin Statutes.

Board of Adjustment. Acting as legal counsel to the Board of Adjustment. Attend Board of Adjustment meetings when required.

Ethics and Conduct of Public Officials. Providing legal opinions and advice regarding ethics and conflict of interest issues under Sections 19.42 – 19.59 of the Wisconsin Statutes.

Real Estate Transactions. Handling the legal aspects of the purchase and sale of real property and property interests by Dunn County.

Monitor Legislature and Courts. Monitor changes in state and federal law and make recommendations for changes in county policy or ordinance, where appropriate

Miscellaneous. Elections, referenda, intellectual property, telecommunications, and whatever other legal issues which may arise from time to time.

History of the Dunn County Corporation Counsel Office

The Dunn County Board of Supervisors created a part-time Corporation Counsel position in November 1970, and contracted with a local law firm to perform Corporation Counsel duties in April 1971. Recognizing that “the legal work of Dunn County has progressively increased in volume and complexity,” the position of Corporation Counsel, with a more detailed description of duties, and an annual operating budget were approved in 1978. The County continued to contract with a law firm for Corporation Counsel services.

During the 1970's and 1980's, the District Attorney was a county employee and performed many of the jobs that are currently performed by the Corporation Counsel, such as adult protective services, guardianships, mental commitments and child support enforcement, while the Corporation Counsel served as general counsel. In 1990, when District Attorneys became state employees, a half-time Assistant Corporation Counsel Position was created to perform duties transferred from the District Attorney’s Office. In 1991, the Child Support Director, who at the time was an attorney, was designated as an Assistant Corporation Counsel in order to ensure backup coverage for matters outside Child Support enforcement.

In 1992 the County Board approved the hiring of a full-time in-house Corporation Counsel and a full-time legal secretary to establish the Department of Dunn County Corporation Counsel. In 1993, a full-time Assistant Corporation Counsel was hired. Office organization has remained the same since then.