



THE CHALLENGE

The newsletter of the Illinois State Bar Association's Standing Committee on Racial and Ethnic Minorities and the Law

Anatomy of a building code violation administrative hearing: From inspection to judgment

By Yolaine Dauphin

Attorney A's client received a notice of ordinance violation from the City of Chicago's Department of Buildings. As a general practitioner, Attorney A does not appear frequently before administrative agencies and seeks guidance in providing competent representation to her client. Attorney B has appeared before the City of Chicago's Department of Administrative Hearings but seeks greater insight into the prosecutorial and adjudicatory processes to better represent future clients. Administrative Hearing Officer C has not conducted

hearings to date involving building code violations and would like to learn about the role of the Department of Buildings in the enforcement of violations and any differences in the conduct of hearings involving the building code. Lastly, Administrative Hearing Officer D is familiar with the adjudicatory process but would like to gain insight into best practices in the conduct of administrative hearings generally. Realizing that practitioners are not necessarily well versed with

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The ISBA and Taft Stettinius & Hollister LLP co-host a seminar titled "Workplace Discrimination: Current Issues in Employment Law"

On April 23, 2015, the Illinois State Bar Association's Standing Committee on Racial and Ethnic Minorities and the Law and the law firm of Taft Stettinius & Hollister LLP co-sponsored a continuing legal education seminar entitled "Workplace Discrimination: Current Issues in Employment Law." The program had a strong lineup of diverse speakers, representing the plaintiff and defense perspectives, as well as that of the Equal Employment Opportunity Commission ("EEOC"). Taft Stettinius lawyer Allan Slagel, a prominent employment and civil rights defense attorney, moderated the program.

Approximately 80 individuals attended the seminar at the offices of Taft Stettinius, and received 2.5 hours of free CLE provided by the ISBA and Taft Stettinius. The following are summaries

of each of the six excellent presentations, which were divided into two panels of approximately 75 minutes each:

Panel 1

Eileen Geary, of the City of Chicago Corporation Counsel, Labor Division, first noted the differences between municipal liability and private employer liability in Title VII cases. She provided a brief history of the Civil Rights Act of 1964 and subsequent civil rights laws. She then discussed the process by which the EEOC receives and investigates charges of discrimination against state and local government employers, and noted the Department of Justice's Civil Rights Division is

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administrative hearing procedures and the rights their clients may have in cases before administrative agencies such as the City of Chicago's Department of Administrative Hearings, and also that hearing officers may not be as conversant as they would like to be with the administrative framework they operate under, the Administrative Law Section Council has planned a wrap-around seminar on June 24, 2015, on the anatomy of a building code violation administrative hearing. The CLE program, to be held from 11:30a.m., until 1:15p.m, at the ISBA Chicago office, 20 S. Clark, is aimed at reinforcing best practices in the prosecution, defense and decision making processes in administrative hearings generally and, in particular, in a building code violation administrative hearing. The Section Council is confident that attendees will increase their familiarity with procedures before the City of Chicago's Department of

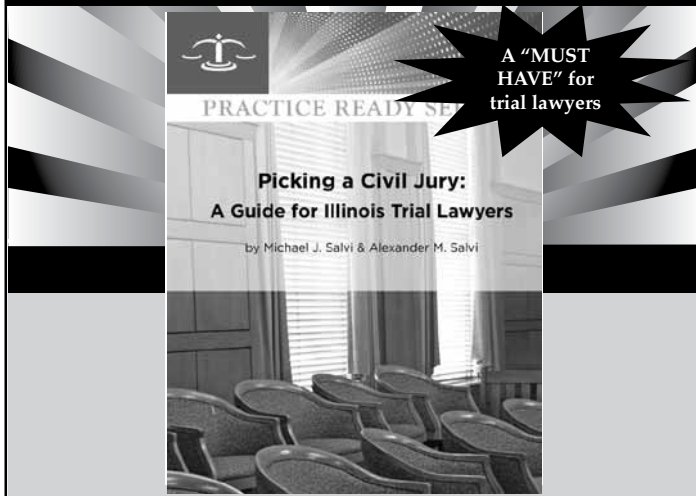
Administrative Hearings and their competencies in dealing with issues that may arise in a hearing conducted by an administrative law tribunal.

Honorable Patricia Jackowiak, Director of the City of Chicago's Department of Administrative Hearings, and Seminar Moderator, will open the CLE program and provide an overview of the Department of Administrative Hearings and of the Buildings Hearings Division. Marlene Hopkins, Managing Deputy Commissioner of the City of Chicago's Buildings Department, will then provide an overview of the Department, while William Bugajski, the Assistant Director Conservation Inspections of the Buildings Department, will follow with a presentation on the inspection process. Thereafter, Patti Gregory Chang, Senior Counsel, City of Chicago Law Department, will address the prosecution of a building code violation from inception

of a case through pre-trial. To round out the program, Honorable Greg Plesha, Administrative Law Judge, Department of Administrative Hearings, will first review issues that may arise in the course of an administrative hearing, address how to preserve the record, and then preside over a mock administrative hearing of a building code violation case.

Honorable Patricia Jackowiak, Director, City of Chicago Department of Administrative Hearings, and incoming chair of the Administrative Law Section Council, and Honorable Yolaine Dauphin, Administrative Law Judge, City of Chicago Department of Administrative Hearings, and *ex officio* of the Administrative Law Section Council, spearheaded the Section Council's efforts in planning the CLE program. They were joined in the planning process by co-coordinator Honorable Frank Lombardo, City of Chicago Department of Administrative Hearings. ■

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The ISBA and Taft Stettinius & Hollister LLP co-host a seminar titled "Workplace Discrimination: Current Issues in Employment Law"

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charged with bringing suits against state and local government employers where it believes a violation of Title VII has occurred.

Cary Donham, an experienced Taft Stettinius attorney practicing employment law and government defense litigation, next presented on class certification issues in employment discrimination cases. He first discussed the legal standards for certifying a class under Federal Rule of Civil Procedure 23(a) and (b). He then analyzed the Supreme Court's recent *Wal-Mart* case, which clarified how commonality under Rule 23(a) is evaluated. Cary also examined several prominent Seventh Circuit employment-related class action cases following *Wal-Mart*, and explained the current legal landscape on class certification.

Matt Piers, a well-known plaintiff's class action attorney and named partner of the law firm of Hughes Socol Piers Resnick & Dym, Ltd., discussed standardized employment tests under Title VII. He analyzed this topic using as an example *Lewis v. City of Chicago*, a case involving a challenge to the standardized employment test used by the City of Chicago for firefighters. *Lewis* was ultimately decided by the United States Supreme Court. Matt provided an informative and entertaining analysis as to the efficacy of standardized tests in predicting job performance.

Panel 2

Amy Ramsey, a labor and employment law partner at Littler Mendelson, P.C., discussed recent developments relating to Title VII protection for lesbian, gay, bisexual, and transgender employees. She focused particularly on recent cases involving transgender employees and employer best practices for making sure these employees are not discriminated against in the workplace. Amy also discussed Executive Order 13672 which prohibits discrimination in the civilian federal workforce on the basis of gender identity.

Tom Luetkemeyer, a partner at Hinshaw & Culbertson LLP, frequent speaker and Adjunct Professor at Loyola University of Chicago School of Law, discussed new rules for Illinois employers regarding pregnancy and workplace discrimination. Specifically, he

analyzed the Illinois Pregnancy Fairness Bill, a new law effective January 1, 2015 which amends the Illinois Human Rights Act to provide protections against discrimination for pregnant employees. He also examined employer best practices related to pregnant employees.

Justin Mulaire, an attorney for the EEOC in its Chicago office, discussed recent EEOC litigation related to severance agreements that either prohibit employees from reporting discriminatory practices or effectively chill the exercise of the right to report. As an example, Justin discussed recent litigation by the EEOC against CVS Pharmacy, Inc., in the United States District Court for the Northern District of Illinois. The CVS case is currently being appealed in the Seventh Circuit. Justin noted the EEOC's position is intended to protect employees' right to seek relief with the EEOC and, ultimately, the courts.

Seminar attendees each received a packet of materials consisting of slides, outlines, cases and briefs related to the above presentations.¹ Attendees then had an opportunity to network at a reception following the seminar.

1. Readers who are interested in receiving a copy of these materials may email Daniel Saeedi at dsaeedi@taftlaw.com.



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Published at least four times per year.

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The articles in this newsletter are not intended to be used and may not be relied on for penalty avoidance.

Postmaster: Please send address changes to the Illinois State Bar Association, 424 S. 2nd St., Springfield, IL 62701-1779.

Upcoming CLE programs

To register, go to www.isba.org/cle or call the ISBA registrar at 800-252-8908 or 217-525-1760.

July

Wednesday, 7/1/15- Teleseminar—Outsourcing Agreements. Presented by the ISBA. 12-1.

Thursday, 7/2/15- Teleseminar—Planning with Life Insurance Trusts. Presented by the ISBA. 12-1.

Tuesday, 7/7/15- Teleseminar—Business Planning with Series LLCs. Presented by the ISBA. 12-1.

Wednesday, 7/8/15- Teleseminar—Ethical Issues When Representing the Elderly—LIVE REPLAY. Presented by the ISBA. 12-1.

Thursday, 7/9/15- Teleseminar—Settlement Agreements in Litigation- LIVE REPLAY. Presented by the ISBA. 12-1.

Tuesday, 7/14/15- Teleseminar—Tax Planning for Real Estate, Part 1. Presented by the ISBA. 12-1.

Wednesday, 7/15/15- Teleseminar—Tax Planning for Real Estate, Part 2. Presented by the ISBA. 12-1.

Tuesday, 7/21/15- Teleseminar—Restrictive & Protective Covenants in Real Estate. Presented by the ISBA. 12-1.

Wednesday, 7/22/15- Teleseminar—Fiduciary Duties & Liability of Nonprofit/Exempt Organization Directors and Officers. Presented by the ISBA. 12-1.

Thursday, 7/23/15- Teleseminar—Ethics and Digital Communications- LIVE REPLAY. Presented by the ISBA. 12-1.

Friday, 7/24/15- Teleseminar—Estate Planning for Farms and Ranches- LIVE REPLAY. Presented by the ISBA. 12-1.

Tuesday, 7/28/15- Teleseminar—Business Planning with S Corps, Part 1. Presented by the ISBA. 12-1.

Wednesday, 7/29/15- Teleseminar—Business Planning with S Corps, Part 2. Presented by the ISBA. 12-1.

Thursday, 7/30/15- Teleseminar—Eminent Domain, Part 1- LIVE REPLAY. Presented by the ISBA. 12-1.

Friday, 7/31/15- Teleseminar—Eminent Domain, Part 2- LIVE REPLAY. Presented by the ISBA. 12-1.

August

Tuesday, 8/4/15- Teleseminar—Construction Agreements, Part 1. Presented by the ISBA. 12-1.

Wednesday, 8/5/15- Teleseminar—Construction Agreements, Part 2. Presented by the ISBA. 12-1.

Tuesday, 8/11/15- Teleseminar—Estate Planning with Annuities & Financial Products. Presented by the ISBA. 12-1.

Thursday, 8/13/15- Teleseminar—2015 in Age Discrimination Update. Presented by the ISBA. 12-1.

Friday, 8/14/15- Teleseminar—Ethical Issues in Buying, Selling, or Transferring a Law Practice. Presented by the ISBA. 12-1.

Tuesday, 8/18/15- Teleseminar—Business Divorce: When Business Partners Part Ways, Part 1. Presented by the ISBA. 12-1.

Wednesday, 8/19/15- Teleseminar—Business Divorce: When Business Partners Part Ways, Part 1. Presented by the ISBA. 12-1.

Thursday, 8/20/15- Teleseminar—Easements in Real Estate. Presented by the ISBA. 12-1.

Monday, 8/24/15- Teleseminar—Like-Kind Exchanges of Business Interests- LIVE REPLAY. Presented by the ISBA. 12-1.

Tuesday, 8/25/15- Teleseminar—Estate Planning for Guardianship and Conservatorships. Presented by the ISBA. 12-1.

September

Tuesday, 9/1/15- Teleseminar—Estate & Trust Planning With the New 3.8% on Income. Presented by the ISBA. 12-1.

Wednesday, 9/2/15- Teleseminar—Drafting Service Agreements in Business. Presented by the ISBA. 12-1.

Thursday, 9/3/15- Teleseminar—Drafting Effective Employee Handbooks- LIVE REPLAY. Presented by the ISBA. 12-1.

Friday, 9/4/15- Teleseminar—Rights of First Refusal/Rights of First Offer in Transactions. Presented by the ISBA. 12-1.

Tuesday, 9/8/15- Teleseminar—Ethics and Pre-Trial Investigations. Presented by the ISBA. 12-1.

Thursday, 9/10/15- Teleseminar—Selling Closely-Held Companies to Employees, Part 1- LIVE REPLAY. Presented by the ISBA. 12-1.

Friday, 9/11/15- Teleseminar—Selling Closely-Held Companies to Employees, Part 2- LIVE REPLAY. Presented by the ISBA. 12-1.

Tuesday, 9/15/15- Teleseminar—Planning to Obtain Tax Free Treatment in Business Combinations. Presented by the ISBA. 12-1.

Wednesday, 9/16/15- Teleseminar—Duress & Undue Influence in Estate and Trust Planning- LIVE REPLAY. Presented by the ISBA. 12-1.

Wednesday, 9/16/15- Live Studio Webcast—Litigating the Municipal Division Case: "Small" Cases Can Create Big Headaches. Presented by the ISBA Tort Law Section. 10:30-noon.

Thursday, 9/17/15- Chicago, ISBA Regional Office—Complex Asset Recovery: Fraudulent Transfers, Offshore Assets & Charging Orders. Presented by ISBA Commercial Banking, Collections and Bankruptcy Section. 8:45-12:15 pm.

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