

Scenario 1

You are a private attorney representing a client in a prolonged entitlement process. Certain market forces are creating financial difficulties for your client to continue the entitlement process of his/her property. Your client has fallen far behind on financial obligations due to all consultants, including their land use attorney. The successful entitlement of the property will enable your client to make good on outstanding financial obligations. They would like for you to consider new fee arrangements to accommodate the current predicament. What are your options? How do these options implicate your ethical obligations?

Considerations:

- Switch to a contingent fee, on the successful entitlement of the property
- Reduce the hourly rate the client must pay
- Hybrid between switching to a contingent fee and reducing the hourly rate
- Terminate representation

Scenario 2

You are a private attorney representing a client before the city's Board of Adjustment on a variance request. The BOA is the final decision maker for all variances. The chairperson of the BOA requires anyone presenting any testimony before the BOA to stand and take an oath. You remain seated. The chairperson requires you to rise and take the oath or conversely, not represent your client before the tribunal.

Considerations:

- How do you respond to this request by the chairperson?
- What are your alternatives?
- Do you stand and represent your client?
- Do you not stand and not represent your client?

Scenario 3

You are a private attorney representing a client to the city council on a rezoning application. The city takes responsibility for noticing for such hearings, including posting the property 14 days in advance of the hearing. In your preparations for the hearing you make several site visits. It appears to you at one of your visits that the site is not properly posted, in fact, it is not posted at all. At the city council hearing the city attorney and the city clerk attest to the site being properly posted for the hearing. You have been surprised by the lack of neighborhood attendance at this hearing.

Considerations:

- How do you advise your client to proceed with the current hearing? Should your client continue or refrain from participation?
- Would counsel be different if there were a multitude of people at the hearing?
- Do you have an obligation to inform the city of the posting problems when you first noticed them?

Scenario 4

You serve as city attorney to a local community. A country club within the city makes an application to rezone a portion of its property. The rezoning application is before the city's planning commission which is a recommending body to the city council in zoning matters. A member of the planning commission ("Commissioner"), who is not an attorney is also a member of the country club. Commissioner fails to disclose the potential conflict and votes on the rezoning application. You later discover the potential conflict.

Considerations:

- What are the ethical obligations of the city attorney when he/she discovers the potential conflict of interest?
- What are the ethical obligations of the Commissioner?
- Who are the city attorney's clients and to whom does the city attorney owe a duty?