

INTRODUCTION

by Benjamin E. Griffith

Municipal law and the organization, operation, and complexity of local government in this nation have grown exponentially since Jefferson B. Fordham's pioneering casebook, *Local Government Law*, was published in 1949.¹ Over 65 years later, the need for this *Municipal Law Deskbook* is clear. When Dean Fordham wrote his groundbreaking treatise, much of municipal law was straightjacketed into a history-bound, case law-driven curriculum about municipal corporations with a smattering of torts, contracts, property, remedies, and constitutional limitations, unrelated to the actual practice of law before local government authorities. Dean Fordham's work in this field helped inform law students and practitioners of the core responsibilities of counsel for units of local government in a way they had not heard before.

It might have been important in a theoretical sense to know that New England towns in the seventeenth century borrowed from the English manorial system, that they held town meetings in which all white adult male property owners of good moral character were eligible to vote, and that when new town officials were elected each year, the offices included

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selectmen, constables, highway surveyors, fence viewers, tithingmen, and cattle catchers.² But Jefferson Fordham chose to write his groundbreaking casebook to reflect the broad experience and pragmatism of one who had dealt directly with the operation of local government and understood the responsibilities of counsel to a municipality. It was a success on many levels and remains so today. It also led to a dramatic increase in the number of law students who upon graduation had some part of their practice directly relating to this field, including city attorneys, assistant city attorneys, local political subdivision attorneys, and associates in law firms representing clients in local government controversies.

The need for a fresh, updated, and current treatment of municipal law issues and practice is generously addressed in *Municipal Law Deskbook* by a comprehensive treatment of the issues that were just beginning to surface six decades ago—such as public sector collective bargaining and freedom of speech by local government employees. That need is amply met by a fresh analysis of municipal law issues that in some instances were not yet on the legal horizon six decades ago—such as municipal liability and municipal bankruptcy.

Municipal Law Deskbook provides a principled, well-organized structure for tackling the current issues that form the grist and bedrock of municipal law practice today. Its subject matter parallels the foundation for municipal law practice skills courses in many of our nation's law schools. Those issues are dealt with comprehensively in this new publication and are addressed from a broad perspective in case law, legislation, administrative decisions, and practical experience, the same ingredients that in 1949 provided a powerful justification for Dean Fordham's seminal work and made him the dean of our nation's local government lawyers.

While not departing from the innovative spirit that prompted Dean Fordham to author one of the most perceptive, influential, and pragmatic treatments of municipal law, *Municipal Law Deskbook* will appeal to a similar audience of academics, municipal lawyers, and contract attorneys who regularly represent or appear before municipal governments. It will prove to be a valuable addition to the law library of lawyers whose practice brings them in close contact with cutting-edge issues such as federal preemption of local law and its many fields of operation, freedom of speech in the public workplace, and constitutional rights of public sector employees under the Fourth and Fourteenth Amendments. It will also provide a thorough, carefully constructed framework for analyzing regulatory takings and inverse condemnation, municipal liability under state and federal law, and public sector labor law and collective bargaining at the local level.

It offers a suitably broad and balanced perspective on compliance with open meetings and public records laws by local government bodies; the use

and multiple benefits of intergovernmental agreements; and municipal procurement of services, supplies, and construction. It addresses the most current legal and administrative issues at the state and federal level relevant to municipal finance powers relating to revenue generation; taxation and borrowing; and municipal bankruptcy in the face of unsustainable structural deficits, unfunded pensions, and other obligations. And finally, written from the perspective of a seasoned state court judge and former leader of the Section of State and Local Government Law, it provides a significant analysis of the multiple standards of judicial review applicable to municipal land use decisions.

In the same spirit in which Jefferson Fordham penned his 1955 *Vanderbilt Law Review* article, *Local Government in the Larger Scheme of Things*,³ a collegial and dedicated team of professionals have contributed their talents and insights to *Municipal Law Deskbook*, a publication that similarly will leave a significant imprint on this complex field of public law. Drawing on his decades of experience as a municipal attorney, Bill Scheiderich has worked tirelessly as editor of this publication and has achieved remarkable success in marshaling the creative talents of an outstanding group of authors, each uniquely qualified to address the topics and issues set forth in this book.

It is fitting that this fresh look at municipal law in all of its modern complexity be sponsored by the ABA Section of State and Local Government Law, the premier association for lawyers involved in urban, state, and local government law and policy. This section of the ABA, founded through the efforts of Dean Fordham, has annually recognized innovation, leadership, and creativity in the field of municipal law. It has done so by giving the Jefferson Fordham Award to individual attorneys, government attorneys, municipal departments, and “Up and Comers” who exhibit the same spark of enthusiasm and serious dedication to public service that set Dean Fordham apart as a preeminent local government scholar. It is for those award recipients and those who follow in their footsteps that *Municipal Law Deskbook* is now available.

ENDNOTES

1. JEFFERSON B. FORDHAM, LOCAL GOVERNMENT LAW (The Foundation Press 1949). See generally Terrance Sandalow, *Jefferson B. Fordham: His Contribution to Local Government Law*, 118 U. PA. L. REV. 665 (1970).
2. JOHN J. CLARKE, A HISTORY OF LOCAL GOVERNMENT OF THE UNITED KINGDOM (Herbert Jenkins 1955); FREDERIC WILLIAM MAITLAND, TOWNSHIP AND BOROUGH (Cambridge University Press 1898).
3. Jefferson Fordham, *Local Government in the Larger Scheme of Things*, 13 VAND. L. REV. 666 (1955).