Becoming a Municipal Administrative Lawyer

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Should you seek a career path that includes administrative law work in local government settings?

The study of administrative law traditionally focuses on federal considerations, but administrative lawyers practice law at every level of government. What do administrative lawyers do in the local setting? At the city level, you find departments instead of agencies carrying out administrative functions, but just as at the highest levels of government, you find administrative attorneys assisting with department research, the drafting and enforcing of ordinances and rules, licensing and permitting, enforcing and adjudicating, rate setting, and legal representation before the courts if there is judicial review of city action. The complexity of each of these categories will differ with city or county size, resources, and structure, but these basic elements are always present.

Research is an important role. City departments are charged with taking ordinances passed by city councils, and ensuring that in their application they fulfill the
intended public purpose or deliver a particular benefit. A city department will reach out to city residents to gather the information needed to craft the city’s policies and programs, and will establish the procedure for reaching the council’s desired result. This may be done through conducting public forums, contracting private firms to conduct studies or surveys, or collaborating with neighboring political subdivisions to gather the necessary information. City attorneys play a role in this process, whether it is by ensuring public forums with council are publicly “noticed” in conformity with open meetings laws, drafting contracts with private firms that comply with competitive bidding or minority business solicitation considerations, or drafting contracts with public entities that comply with the unique guidelines for interlocal contracts between government entities. There is plenty of research work to be done in state and federal laws and regulations, state attorney general opinions, auditor reports, guidelines, and other materials that direct, command, or guide choices to be made by local officials.

Drafting ordinances and rules is a visible and complex part of the lawyer’s role. The results of staff research—or citizen lobbying in many circumstances—can prompt city councils, like state legislatures, to promulgate ordinances and resolutions or direct city departments to do so on their behalf. This calls for the services of the city attorney, to assist with the nuts and bolts of drafting a city law that complies with a range of controlling legal considerations. From constitutions to due process, from case law to state attorney general opinions, the city attorney is challenged to draft city law that complies not only with binding state and federal requirements but also with city code; city attorney opinions; the actions of council, boards, subcommittees, or commissions; and in some cases, a city charter. Once an ordinance is in place, the city attorney assists the implementing department with rules to fill in the details of everyday administration, consistent with the rulemaking process. The city or county process for rulemaking operates under state administrative procedure codes that often echo the notice and posting guidelines of the administrative procedures that federal attorneys know so well.

Enforcing laws that have been adopted is a constant role. A city department will exercise discretion to enforce city ordinances and department rules in a manner intended to effectuate council’s intent, and to deliver the public service or benefit in a manner that efficiently expends the tax dollar; it is taxes and economic growth that fuel the
city budget and that make every city employee’s job possible. The city attorney counsels staff and guides them through unique fact patterns, helps them to weigh considerations in their discretionary role, and assists staff with its public communications.

Licenses and permits are a constant source of legal business in municipal and county governments. In an effort to protect public welfare, cities implement licensing schemes to ensure residents are serviced by qualified professionals, and cities may issue permits to regulate a range of activities. A city department may, for instance, license lobbyists, oversee day care centers, or issue building permits. When a city steps in to authorize or regulate certain private activities via licenses and permits, the governance is done within constitutional and statutory constraints. Proactive counseling by city attorneys ensures that the program can survive any challenges to its due process, and the lawyer’s role preserves liberty and property rights that are involved in the grant or denial of such licenses and permits.

Adjudicating violations or negotiating compliance problems is another role. A city department must be able to enforce its ordinances or licensure process, and must be able to adjudicate violations. City attorneys assist departments with the proactive work of going out into the field and investigating applicants or complaints. A city department may license tow-truck drivers; once city staff identifies grounds for enforcement, a city department may wish to revoke a tow-truck driver’s license based on the city’s investigation of a complaint filed by a city resident. The department may make an initial decision on suspension, debarment, or revocation of a license. If the tow-truck driver appeals and criticizes the city’s exercise of authority as a breach of due process rights, he or she may encounter another type of attorney in the local administrative law setting—an administrative judge or hearing officer. Judges aren’t the only branch of government that may review a department’s action—city councils and city managers may exercise their own political forms of legislative and executive review of the operating-level decision. Attorneys assist with all of these procedures.

Administrative attorneys are involved at every step of city or county department activity, from general administrative procedures like compliance with open meetings laws to advising how best to follow the department’s enabling legislation, from following substantive and procedural rules to judicial oversight of a department’s regulatory scheme. That is how city or county government administrative attorneys, like all
administrative law practitioners, play an important role in monitoring the legal principles common to all administrative agencies.

Is there a job for you? Since every community has a different political and social dynamic, I urge you to go to your home city or county government attorneys and ask about their experiences and whether they have found a satisfying career “close to home.” The personal benefits of working to better your home area make municipal law a very rewarding choice for the conscientious young lawyer.