

NYCOM CANNOT SERVE AS YOUR MUNICIPAL ATTORNEY:

We should not be the first point of contact for all municipal inquiries. Every municipality has its own attorney. NYCOM is a resource to assist your municipal needs; it is not a replacement for your municipal attorney. NYCOM legal services do not include such matters as drafting individualized resolutions, local laws, ordinances or charters; comprehensive review of specific applications before local boards, or contracts; or any direct representation of the village or city in court or with third parties. However, we can provide you with a checklist for drafting local laws and reviewing municipal contracts and leases.

NYCOM MUNICIPAL INQUIRY SERVICE:

The NYCOM staff includes three full-time attorneys, as well as individuals skilled in labor relations and local finance issues. We provide assistance to those who work for our member municipalities. Our services include providing daily telephone assistance for your inquiries, preparing handbooks, conducting seminars and educational programs, and offering legal support to municipal litigants through our amicus curiae program.

HOW TO USE NYCOM'S MUNICIPAL INQUIRY SERVICE:

NYCOM's staff members can be reached toll-free at (800) 446-9266, or (518) 463-1185, by fax at (518) 463-1190, or by e-mail. Whether your inquiry is by letter, telephone, fax, or e-mail, these guidelines will help us give you the most prompt, accurate response.

- Call or write as soon as possible after identifying the problem.
- Provide us with as many facts as possible. When you call, a receptionist will ask you a number of questions to determine to whom your call should be directed.
- If you fax or e-mail us, you should include your name, title, municipality, telephone and fax number, and mailing address along with the inquiry.
- If your inquiry is a follow-up on an issue you have been discussing with one of our staff members, then please advise our receptionist so your call may be directed to that staff member.
- Try to minimize the number of officials calling from your municipality on the same issue. This scenario can create a great deal of confusion.
- Advise us of the best time to reach you. If you are under a deadline, advise us and we will try our best to meet it. However, please do not put off your inquiry until the last minute.

WHO MAY INQUIRE?

We answer inquiries from all municipal officials, including board, council or committee members, whose municipality is a NYCOM member and who call about issues within their official responsibilities. We are not a legal hot-line for the state. We are not permitted to give advice on municipal law to private citizens. Nor may we advise officials about their private concerns. Please do not give our telephone numbers to private citizens.

RESPONSE TO INQUIRIES:

Telephone Inquiries: Our top priority is to respond to your telephone calls in a timely fashion. Normally, calls are returned the same day or the following day (some opinions may take longer, depending on the difficulty of the issue). Some exceptions are unavoidable, such as during our annual conferences, or during the legislative session.

Written Inquiries: With more than 550 members, we cannot confirm telephone advice in writing. We will gladly answer requests for written opinions. A request for an opinion must be made in writing and set forth all the facts and information upon which you would like the written opinion based. Opinions will be based solely upon the facts and information provided in your written request. Response time depends on our volume of work, the degree of difficulty of the issue, and the amount of research that must be done. We cannot respond immediately to your request for a written opinion, but will do so in a timely and prompt manner. Pursuant to a policy established by the

Executive Committee, the mayor and the municipal attorney receives a copy of all written responses.

Fax Inquiries: These are treated the same as telephone or written inquiries. An inquiry received by fax is not given priority over other telephone or written inquiries. We generally respond with a phone call, unless a written opinion is specifically requested.

E-mail Inquiries: These are treated the same as fax inquiries. All e-mail inquiries must include the name and title of the municipal official making the inquiry, along with a telephone number, fax number and mailing address. When we receive an e-mail inquiry that includes this information, we will confirm by e-mail our receipt of the inquiry. We will respond to the inquiry only when we can verify the sender as a current municipal official. E-mail inquiries requesting a verbal opinion or a copy of a statute, local law, or other document, will receive either a telephone call or fax response from the NYCOM staff. E-mail inquiries requesting a written opinion of the NYCOM staff will be responded to by traditional mail. We will not provide any legal opinions via e-mail.

Subject Matter Of Inquires: We can serve you best when we are answering questions of generic municipal law issues (issues of interest to more than just one or two communities), especially questions which can be answered by reference to state statutes or court opinions. If the answer hinges on complex local facts, documents, or the peculiarities of local laws, ordinances or charters, you will be advised to contact your municipal attorney.

FIRST COME, FIRST SERVED:

Advisory services are provided on a first come, first served basis. When it appears a member municipality is using the service excessively in relation to other communities, inquiries from that community may be given lower priority. If that is the case, then the mayor of the municipality in question will be notified.

LEGAL OPINIONS:

Legal decisions are made by courts. Our staff provides opinions. A municipality's legal counsel provides opinions that he or she believes could be successfully defended in court if necessary. Some municipal issues are more uncertain than others. Where the status of an issue is especially unclear, we will tell you it is unclear and advise you to check with your municipal attorney.

ASSISTANCE TO LOCAL COUNSEL:

We do not second-guess your municipal attorney. If we know that your attorney is already involved in a matter, our main advice will be to follow the advice of the lawyer who is going to stand behind you in court. Of course, we are always happy to discuss an issue with municipal attorneys, if they ask for our assistance. It helps all municipalities for their attorneys to share ideas and perspectives.

LOCAL DISPUTES:

Because we cannot ethically represent more than one side of an issue, we cannot respond directly to just one side of a dispute that involves two or more member municipalities and their officials. We may deal with these disputes if both parties involved provide us with a joint written request and agree that our response will be given to everyone concerned. However, some boards and councils have ongoing disputes of a political nature. We cannot and will not become involved in these types of disputes.

ATTORNEY ETHICS:

Questions regarding the ethical conduct of your municipal attorney cannot be answered by NYCOM staff attorneys. Assistance on the subject is provided by the NYS Bar Association. Kit McNary, Esq. can be reached at (518) 487-5691; via e-mail at ethics@nysba.org; or by fax (518) 487-5694.

CONFIDENTIALITY:

We will be glad to protect your confidentiality if you ask us to, but otherwise, we assume that inquiries are not intended to be confidential as between NYCOM and other members of the board or council. In fact, because telephone advice is, by its very nature, subject to misunderstanding, we are often asked by one official to explain what we told another official, and we are glad to do so. Further, the NYCOM Executive Committee requires that a copy of any written staff response to a written inquiry from an officer or employee of a member municipality be provided to its mayor and legal counsel.

SPEAKING WITH THE PRESS:

We will not talk to the press about conversations we have with our members. We will not elaborate, confirm, deny, or explain any communication we have with you. Where the press is involved, we consider our communications with our members to be confidential. If you decide to release our communication to the press, then that is up to you. However, please do not tell the press to contact us to explain advice we gave you. We will not respond to such a request.

AMICUS BRIEFS:

NYCOM has an active *amicus curiae* (friend of the court) program. If you have a case involving a fundamental issue of municipal law, which has statewide importance to local government, and you would like our assistance, then please let us know. We will send you a copy of the pamphlet describing the program.



**NY
COM**

*New York State Conference of
Mayors & Municipal Officials*