

# “Can I sue your city?”

Dealing with members of the public and  
pro se litigants

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# “Can I sue Springfield?”

- A disgruntled citizen

**Ethics Note: Texas  
Disciplinary Rule of  
Professional Conduct  
(TDRPC) 1.06(b) cmt 1:  
“Loyalty is an essential  
element in the lawyer’s  
relationship to a client.”**



# “I’m going to sue Springfield!”

-Springfield city council member

**\*hires own lawyer to represent him in his official capacity**

**\*tells Springfield that city will pay for it**

- ◆ Individual members of council have no authority to obligate the city to make an expenditure.
- ◆ Council members sued in official capacity have no standing to assert position other than that advanced by the City. *Bender v. Williamsport Area Sch. Dist*, 475 U.S. 534 (1986).



**“I have a right as a council member to attend executive session to discuss this lawsuit against the city in which I am a plaintiff.”**

-Recalcitrant council member

**Ethics Note: TDRPC 1.05(b)(1) – cannot reveal confidential info to a person that client has instructed is not to receive the information**



**“I need you to scare that council member who is repeating what she hears in executive session.”**

**-The Mayor**

**Ethics Note: TDRPC 1.03(b):  
“A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”**



# **“I believe what we just did was illegal; how can I sue Springfield?”**

- Planning & Zoning Commission member

**Ethics Note: TDRPC 1.12(e): “In dealing with an organization’s directors, officers, employees, members, shareholders, or other constituents, a lawyer shall explain the identity of the client when it is apparent that the organization’s interests are adverse to those of the constituents with whom the lawyer is dealing or when explanation appears reasonably necessary to avoid misunderstanding on their part.”**



# “What is your legal interpretation of paragraph 13 of the Development Agreement?”

-Member of the public during a city council meeting

**Ethics Note: TDRPC 2.02: “A lawyer shall not undertake an evaluation of a matter affecting a client for the use of someone other than the client unless: (a) the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer’s relationship with the client; and (b) the client consents after consultation. ”**



# **“I’m going to run for Springfield city council. How do I do my election filing?”**

-A citizen watchdog

**Ethics Note: TDRPC 1.06(b), cmt. 6:  
“Within the meaning of Rule 1.06(b), the representation of one client is ‘directly adverse’ to the representation of another client if the lawyer’s independent judgment on behalf of a client . . . is reasonably likely to be adversely affected by the lawyer’s representation of, or responsibilities to, the other client.”**





# “Why do you need these public records, anyway?”

- City’s public information officer to habitual lawsuit threatener

**TEX. GOV’T CODE § 552.223: “THE OFFICER FOR PUBLIC INFORMATION OR THE OFFICER’S AGENT SHALL TREAT ALL REQUESTS FOR INFORMATION UNIFORMLY WITHOUT REGARD TO THE POSITION OR OCCUPATION OF THE REQUESTOR, THE PERSON ON WHOSE BEHALF THE REQUEST IS MADE, OR THE STATUS OF THE INDIVIDUAL AS A MEMBER OF THE MEDIA.”**



# How to Treat a Pro Se Litigant

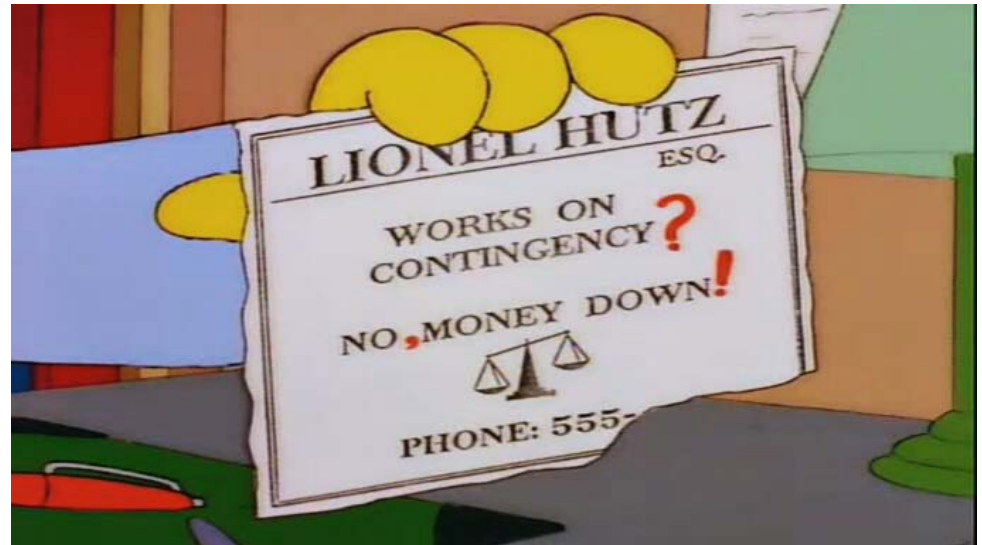
**Ethics Note: TDRPC 4.03:**  
“When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer’s role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.”



# “I’m going to talk to my [hypothetical] lawyer.”

-Pro se litigant

**Ethics Note: TDRPC 4.02(a); “In representing a client, a lawyer shall not communicate . . . about the subject of representation with a person . . . The lawyer knows to be represented by another[.]”**

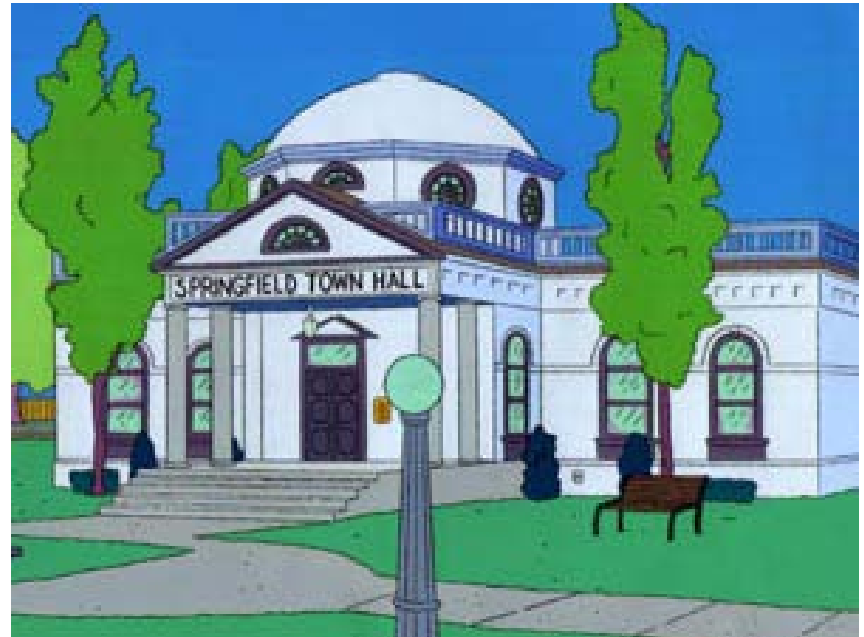


# **“I’m a taxpayer, and I want to speak to the city attorney now!”**

Pro se plaintiff shows up at City Hall (or your office)

\*security concerns

**Ethics Note: TDRPC 4.03, cmt.; “During the course of a lawyer’s representation of a client, the lawyer should not give advice to an unrepresented person other than the advice to obtain counsel.”**



# **“This is just a little thank you for treating me so fairly.”**

-Note to prosecutor from pro se defendant

**TEX. GOV'T CODE § 552.001(a): “It is the policy of this state that a state officer . . . may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.”**



**“You’re the best attorney I know. Will you represent me in my other lawsuit?”**  
-pro se litigant suing Springfield

**Ethics Note: TDRPC 1.09(a) – without prior consent, lawyer who has formerly represented a client shall not thereafter represent another person in a matter adverse to the former client if it is same or substantially related matter, or will violate 1.05 (Confidentiality of information).**



**“Everyone knows that the city attorney is ripping off the taxpayers”** - A sincere yet grossly misinformed citizen

**Ethics Note: TDRPC 4.04(a):**  
**“In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person . . . .”**



**YOU are the face of the city!!!**

# How do you resolve ethical issues?

- ◆ Have a process





# Conclusion

