



1

## ABOUT THE SPEAKER: *Alan Bojorquez*

- Texas Tech University: JD, MPA, BA
- Managing Partner, Bojorquez Law Firm, PC
- Former Assistant General Counsel, Texas Municipal League
- Past- President, Texas City Attorneys Assn
- Board Member, International Municipal Lawyers Assn
- Author, *Texas Municipal Law & Proc Manual (7<sup>th</sup> Ed.)*



**BOJORQUEZ**  
LAW FIRM, PC  
[TexasMunicipalLawyers.com](http://TexasMunicipalLawyers.com)

2



Buyers

Council Member / Seller

Mayor & City Manager

Me

CAUSE NO. [REDACTED]

IN THE DISTRICT COURT

JUDICIAL DISTRICT

OF TRAVIS COUNTY, TEXAS

FINAL JUDGMENT

3

Is she a “Client”?

Or just a Defendant!

Council Member

Working w/o Permit

Notice #: 0012

OFFICIAL NOTICE OF ORDINANCE VIOLATION

Date Notice Issued: 08/12/2021

In the Municipal Court [REDACTED] Texas

Offense Date: 08/09/21

Name: [REDACTED]

Address: [REDACTED]

City: [REDACTED]

State: TX Zip: 78602

Home Phone: 512-[REDACTED]

Work Phone: [REDACTED]

DOB: 12/1/ [REDACTED]

DL: 12/1/ [REDACTED]

Vehicle Information: 12/1/ [REDACTED]

VIOLATION 1: work w/o permit

4



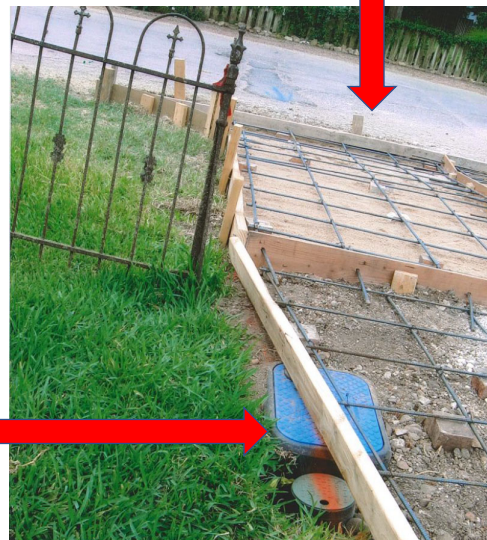
## We strive to protect the City!

### What about this Council Member?

Council Member is a General Contractor in town and this is their client's project

That's going to be the driveway

Yes, that's a *Water Meter*!



5

5

## State Bar of Texas

1981 Texas Bar 1<sup>st</sup> to create separate ***paralegals*** division:

- a person
- employed / engaged by attorney, firm, govt or other
- qualified thru combo of education, training or experience
- who performs delegated substantive legal work
- requiring a knowledge of legal principles & procedures
- under direction / supervision of licensed attorney
- that absent such a person, an attorney would have to do



AMERICANBARASSOCIATION



State Bar of Texas  
Paralegal Division

6



## Texas City Attorneys Association

### Paralegal Membership:

- Any person who meets Bar's definition
- is employed by a TCAA member
- is interested in representation of cities & general improvement of municipal law practice &
- the purpose of TCAA



TEXAS CITY ATTORNEYS ASSOCIATION

7

## National Association of Legal Assistants

### Canons

- can't do anything only attorneys can (eg involving legal judgment)
- shall protect client confidences & secrets
- can't solicit legal business on behalf of an attorney
- can't engage in paralegal tasks unless supervised by attorney
- can't advertise / contract w/ public for paralegal functions
- shall avoid a conflict of interest
- shall maintain a high standard of ethical conduct
- shall maintain a high degree of competency



8



## Unauthorized Practice Of Law

- establishes the attorney-client relationship or fees
- gives legal advice
- takes a deposition
- represents a client in court (except as allowed before certain administrative agencies)
- provides legal services to the public w/o supervision & direction of a licensed attorney
- Attorneys are responsible for the ethical violations of their non-lawyer assistants

TDRPC 5.03



9

## Texas Disciplinary Rules of Professional Conduct

### Rule 1.12 Organization as a Client

A lawyer employed or retained by an organization represents the **entity** .... and accepts direction from an entity's duly authorized **constituents**, ...



10

10



# Texas Disciplinary Rules of Professional Conduct

---




## Rule 1.12 (Comment 9) Government Agency

Duty defined in this Rule applies to **Governmental Organizations**






11

11



# The End

*And they all paralegalled happily ever after!*



12

12



***Ooops,... wait,  
perhaps there's more to it.  
It ain't that simple!***

13

13

## **Who's my client? *My client is a Thing!***

### **TDRPC Rule 1.12(a):**

- Lawyer representing an **Organization** represents the **Entity**
- Lawyer takes direction from entity's duly authorized **Constituents**
- **Comment 1.** Lawyer represents the Org as distinct from its directors, officers, employees
- Unlike individuals (who can speak and decide for themselves), an organization can speak / decide only through its agents or constituents (e.g., officers or employees).



14



## Who's my client? *My client is People?*

### TDRPC Rule 1.12(a):

- When the Org's interests are **adverse** to those of *Constituent's*, lawyers should advise that Constituent that the lawyer cannot represent them, and they can obtain *independent legal rep.*
- **Comment 9.** When the client is a governmental organization, a different balance may be appropriate between maintaining **confidentiality** and assuring that a wrongful official act is **prevented** or **rectified**, because public business is involved



15

## Paralegals can help their Attorneys

### Keep track of... *Who's Our Client?!?*

- To be successful, we must be comfortable knowing our "Client" can be a dynamic, evolving, shifting grouping of people
- Our "Client" can change with a change in circumstances
- Whether someone is a "Client" may depend less on their *Title* and more on the *Subject / Topic / Project / Issue*

16

16



## What do you do when ...

- Mayor Pro Tem attends the City Secretary's consultation with City Secretary's *personal* attorney prior to the City Secretary's disciplinary hearing before the Council?
- Council Member sues the City?
- Mayor Pro Tem is married to a city department head whose position is scheduled to be abolished by the Council?



17

17

## What do you do when ...

- Mayor is convinced the City Manager is like the *Chief of Staff* and the City Attorney is akin to *White House Counsel*?
- Council votes to file an Ethics Complaint against a Council Member?
- Mayor leaks city's litigation defense strategy to plaintiff's counsel?



18

18



## What do you do when ...

- Chief of Police secretly records Mayor trying to influence investigation of traffic accident (the Mayor didn't witness)?
- Council Member is being prosecuted for plumbing work that he did as professional plumber *without* the required permits?
- Council Member is being prosecuted by city for *Public Intoxication* after being in a brawl at the park during the city's annual *Goat Cookoff*?



19

19

## Muni Questions, Tips & Pointers

### Setting Boundaries:

- Establish protocol with your supervising atty
  - When can you initiate contact with client?
  - When can you respond to client?
  - What can you discuss with a client?
- Clarify limitations with your clients
  - You are not a lawyer
  - You cannot advise or approve

20

20



## Muni Questions, Tips & Pointers

### Client Communications:

- Communication regularly
- Don't ignore client mail, faxes, calls, email
- Choose appropriate means / methods
- Clarify who the message is from (eg, Attorney)
- Remain aware of Texas Public Information Act
- Keep in mind the Texas Open Meetings Act

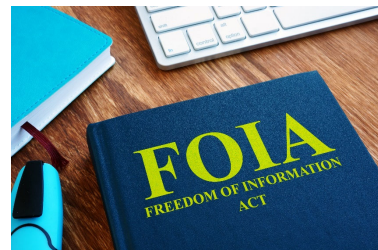
21

21

## Muni Questions, Tips & Pointers

### Open Records:

- Who gathers / compiles / sorts / reviews?
- Who prepares 10 letter? 15 day letter?
- Who has final approval over redactions?
- Who has authority to release data?



22



## Muni Questions, Tips & Pointers

### Advising:

- Paralegals *can't* advise clients!
- Paralegals *can* pass along advice from Attorney.



23

23

## Muni Questions, Tips & Pointers

### Data Distribution:

- Who is responsible for dropping it in the mail?
  - Faxing? Overnighting? Hitting <send>?
- Do you CC / BC everyone?
- Are you tracking when a Council Member has a Conflict of Interest?
  - and thus shouldn't receive?



24



## Muni Questions, Tips & Pointers

### Document Preparation:

- Are you responsible for gathering data?
- Is your role limited to proofreading / formatting?
- Can you review for legality?
- Do you prepare first draft?



25

## Clients on Emails w/ Opposing Counsel

### ABA 4.2: *Lawyers should talk to Lawyers!*

- In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer regarding the matter, unless the lawyer has the **consent** of the other lawyer or is authorized to do so by law or a court order.
- Same is true for Lawyers' Staffs (eg, *Paralegals*)
- What about when a *Lawyer* CC's their Client on emails w/ Opposing Counsel?
- What happens when your City Manager emails a Developer & CC's the Developer's *Lawyer*?



26



## ABA Formal Opinion 503 (Nov. 2, 2022):

A person is working on a laptop at a wooden desk. Their hands are visible, typing on the keyboard. A notebook and a pen are also on the desk, along with a white cup of coffee on a saucer. The scene is brightly lit, suggesting a sunny day.

27

27

TCAA

TEXAS CITY ATTORNEYS ASSOCIATION

HomeAbout TCAAResourcesTrainingPrograms

# TCAA Membership Information

## Eligibility

- Paralegal Members – Any person who meets the definition of “paralegal” as promulgated by the State Bar of Texas, who is employed by an active, associate, or honorary member, and who is interested in the representation of municipalities and the general improvement of municipal law practice and the purpose of the Texas City Attorneys Association.

## Dues

Annual dues are per individual, on a fiscal year beginning July 1. Membership fees are as follow

- City Attorneys are \$70.00.
- Assistant City Attorneys are \$40.00.
- Associate Members are \$80.00.
- Paralegals are \$40.00.
- Law Clerks (Students) are \$40.00.

<https://texascityattorneys.org/tcaa-membership-information/>

28

28





29