



Call To Order

Newsletter of the Illinois Association of Administrative Law Judges

June 2015, Vol. 1 No. 2

President's Message

By Hon. Camela A. Gardner

As IAALJ closes yet another fiscal year, the fourth in which I have had the pleasure of serving as Chair, I wanted to spend a little time addressing the role of an Administrative Law Judge in today's society.

ALJ's were at one time referred to as the "Hidden Judiciary". Thankfully over the years there has been a substantial improvement in the visibility of the administrative forum and the judges who preside therein. For the vast majority of persons, it is not the constitutional or statutory court judges whom they first encounter in an adjudicatory proceeding but rather an ALJ.

Most commonly, it is an ALJ who presides over parking and minor traffic, building, business affairs, consumer protection, revenue, transportation, zoning, animal control, environmental control, highways, and public health violations, to name a few.

Clearly, we can no longer be considered invisible. And, it is members like yourself that have done much to see that we are no longer invisible.

In closing, I invite you to become actively involved, as we continue in our quest for

recognition throughout this program year by creating and building upon our current membership and pre-existing committees and programs.

IAALJ 2015 Dues Now Payable

Please pay your 2015 dues as soon as possible. Please use the attached updated membership enrollment form.

By way of background, the Illinois Association of Administrative Law Judges (IAALJ) is the official Illinois affiliate of the National Association of Administrative Law Judiciary (NAALJ), the largest professional association of administrative law judges and administrative hearing officials in the nation. The IAALJ is a not for profit corporation dedicated to the advancement of administrative justice and the professionalism of administrative law judges employed by government entities in Illinois. The IAALJ is one of the largest NAALJ affiliated state organizations.

Through cooperative efforts to strengthen local organizations of administrative law judges, your membership in the IAALJ automatically makes you a member of the NAALJ for the low annual dues of \$80.00. This is less than the cost of being a member of the NAALJ alone. By continuing as a member of the IAALJ and the NAALJ you will be provided:

- A subscription to the *Journal of the National Association of Administrative Law Judiciary* and the newsletters of the IAALJ and the NAALJ containing current developments in administrative law, adjudication and administrative law judge advancement. The latest July 2014 NAALJ newsletter is available at www.naalj.org.
- Notices to participate in professional legal educational opportunities, seminars and conferences, some free or at nominal cost, designed specifically for administrative law judges by some of the top legal experts in their fields, such as the September, 2014, 40th annual NAALJ meeting and conference in Memphis, Tennessee, the upcoming NAALJ April 2015 midyear conference in Annapolis, Maryland, last year's IAALJ and NAALJ annual meeting and training for ALJs held in Chicago. See the NAALJ website at www.naalj.org for additional information.
- Opportunities to socialize and interact with administrative law judges from Illinois and across the nation and, debate issues important to all of us. You will also have the opportunity to participate in the work of the substantive and service committees of the NAALJ and the IAALJ. See the IAALJ website

Complete and send the attached form with payment to the address below. If you have any questions, please call Treasurer Stanley Cygan at 312-793-1118 or email the IAALJ at iaalj@justice.com.

Congratulations



Judge Ann Breen-Greco is the first state ALJ to move into the top leadership position of the Judicial Division of the American Bar Association. Kudos to her!!!!

Past Events Highlight

How to Become an Administrative Law Judge

On January 22, 2015, the **Illinois Association of Administrative Law Judges** in partnership with the **Black Women Lawyer's Association's, Government Services Sub-Committee**, hosted a dinner and panel discussion entitled, *How to Become an Administrative Law Judge*. Nearly 50 attendees received invaluable career information and spent time networking with current Administrative Law Judges. BWLA would like to thank the panelists, **Hon. Audrey Wade**, Chief Hearing Officer, Office of the General Counsel, Chicago Housing Authority; **Hon. John C. Allen IV**, Director/Chief Administrative Law Judge, Cook County Office of Administrative Hearings; **Hon.**

Sherry Thompson, Regional Chief Administrative Law Judge, Office of Disability Adjudication & Review, Social Security Administration; and moderator **Hon. Camela A. Gardner**, President, Illinois Association of Administrative Law Judges and Administrative Law Judge, Illinois Department of Public Health.



Photo 1 from (L) to (R): BWLA Government Services Sub-Committee Co-Chair, Jamie Manning, Hon. Sherry Thompson, Hon. Camela A. Gardner, and Hon. John C. Allen.
Photo 2: Hon. Camela A. Gardner

Illinois Association of Administrative Law Judge (IAALJ) held its Bi-Monthly Meeting on June 23, 2015 at ISBA’s office. **Langdon D Neal** spoke on the “**Opportunities for Hearing Officers at the Board of Elections.**” Mr. Neal has been the owner of Neal & Leroy, LLC since 1981. He concentrates in real estate, zoning, land use and finance. One of Mr. Neal’s

most impressive accomplishments is being Chairman of the Board of Elections for 18 years. In April 2015, he announced that he would be retiring from this position. Mr. Neal outlined the responsibilities of administrative law judges and stated that one of the disadvantages of the position is working on holidays including Christmas Eve as well as weekends. One infamous case decided by the Chicago Board of Elections was whether mayoral candidate Rahm Emanuel met the residency requirements. If you are interested in applying for this interesting and challenging position, you must forward a resume to the Chicago Board of Elections.

Anatomy of a Building Code Violation Administrative Hearing: From Inspection to Judgment

By Yolaine Dauphin

Realizing that practitioners are not well versed with administrative hearing procedures and the rights their clients may have in cases before administrative agencies, such as the City of Chicago Department of Administrative Hearings, or the administrative framework these agencies operate under, the Administrative Law Section Council presented a seminar on June 24, 2015, on “The Anatomy of a Building Code Violation Administrative Hearing”. The CLE program, held at the ISBA Chicago office, 20 S. Clark, from 11:30a.m., until 1:15p.m, was aimed at reinforcing best practices in the prosecution, defense and decision-making in administrative hearings

generally and, in particular, in a building code violation administrative hearing. The Section Council's mission was to increase practitioners' familiarity with procedures before the City of Chicago Department of Administrative Hearings and their competencies in dealing with a variety of issues that may arise in an administrative hearing.

Honorable Michele McSwain, Senior Administrative Law Judge / Division Chief, City of Chicago Department of Administrative Hearings, Buildings Hearings Division, opened the CLE program with an overview of a building code administrative hearing. Marlene Hopkins, Managing Deputy Commissioner, City of Chicago Buildings Department, next provided an overview of the Department, while William Bugajski, Assistant Director Conservation Inspections, City of Chicago Buildings Department, followed with a presentation on the inspection process. Thereafter, Patti Gregory Chang, Senior Counsel, City of Chicago Law Department, addressed the prosecution of a building code violation from inception of a case through pre-trial. To round out the program, Honorable Greg Plesha, Administrative Law Judge, City of Chicago Department of Administrative Hearings reviewed issues that may arise in the course of an administrative hearing, addressed how to preserve the record, and last presided over a mock administrative hearing of a building code violation case.

The Honorable Patricia Jackowiak, Director, City of Chicago Department of Administrative Hearings, and incoming chair of the Administrative Law Section Council, and The Honorable Yolaine Dauphin, Administrative Law Judge, City of Chicago Department of Administrative Hearings, and *ex officio* of the Administrative Law Section Council, spearheaded the Section Council's efforts in planning the CLE program. They were joined in the planning process by co-coordinator Honorable Frank Lombardo, City of Chicago Department of Administrative Hearings.



Articles

Recusal in Administrative Law Judge Process.

**By Darlene Redmond
Administrative Law Judge**

One of the most pressing issues in the administration of justice in Illinois is the impartiality and impropriety of judges.

The Rules of Judicial Conduct, Cannon 3 provide, in part:

A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably

be questioned, including but not limited to instances where: (a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding.

In small municipalities, court personnel or social workers may unintentionally obtain intimate knowledge about a litigant or facts of a case. Judges in this setting work in close proximity with the staff. The judge should consider either removing his/herself from the conversation or disqualifying themselves when information is being disclosed that could affect their decision. The judge needs to consider whether to disqualify himself or herself even if the judge believes he or she can be impartial because one of the parties might reasonably question the impartiality of the judge. It is imperative that a party leave the court with the impression that he/or she received a fair trial. Judges should do their part in providing a fair trial by recusing themselves when their impartiality can reasonably be questioned by either party.

The Independence of Hearing Officers in Administrative Adjudication

By Robert Anderson, Director of Adjudication, Village of Oak Park

It is important that municipalities utilizing an in-house administrative adjudication process be perceived as being independent. If the process is seen as being independent it

will support the perception that the process is fair and impartial.

Respondents that appear before a municipal hearing officer are inclined to feel that the hearing officer is biased in favor of the municipality. If this perception is not overcome, it will compromise the credibility of the process. This problem can be avoided or lessened with a few steps.

First, the hearing officer must make a concerted effort to not become too familiar with employees of the municipality. A hearing officer will appear biased if he is too friendly with employees. Accordingly, the hearing officer should address all of the parties and witnesses by using titles such as Mr., Mrs., Ms., inspector or officer.

Second, having hearing officers that are independent contractors rather than employees of the municipality supports the appearance of neutrality. As independent contractors, the hearing officers appear more independent and less likely to have an interest in the outcome of the process.

Finally, the municipality has to build a "wall" between the hearing officers and the officials. The "wall" will give the hearing officers the freedom to exercise independent judgment and protect the municipal officials from any allegations of asserting undue influence over the process

The Definition of Inferior Officer

**By: Paul Freehling, Senior Counsel
Seyfarth Shaw LLP**

Raymond Cyrus, an Illinois Department of Labor ALJ, brought to my attention a ruling a few days ago by Atlanta U.S. District Court Judge Leigh Martin May. An administrative adjudication concerning an insider trading case filed by the SEC was about to begin when the defendant, Charles Hill, sought and obtained a preliminary injunction entered by Judge May, halting the administrative proceeding. Mr. Hill contends that the SEC's accusations should be tried in court before an Article III judge, not before an ALJ selected by the SEC's office of in-house judges.

Judge May held that the Appointments Clause in the U.S. Constitution -- Art. II, Sec. 2, second clause -- precludes a jurist who was not appointed by the SEC's commissioners themselves from hearing Mr. Hill's case. He argued, and Judge May agreed, that the ALJ designated to adjudicate the insider trading litigation is an "inferior officer" within the meaning of the Appointments Clause. Since he was not appointed by the commissioners, Judge May concluded that the ALJ's appointment was unconstitutional.

The IAALJ is accepting submissions!

The IAALJ Newsletter wants your submissions! If you have an article you would like to submit, events you'd like publicized, an IAALJ member you'd like to publicly congratulate, or useful practice tips you'd like to share, PLEASE contact our editor, Darlene Redmond at iaalj@justice.com. Please include the term

"newsletter" in the subject line. The Newsletter is a bi-monthly publication. The deadline for submissions for the upcoming Newsletter is August 31, 2015.

On The Docket

Administrative Law Judge Meetings, Conferences and Committees Calendar of Events.



ABA Judicial Division

July 30 - August 4
2015 ABA Annual Meeting
Marriott Michigan Ave
Chicago, IL
www.ambar.org/jdannual for details

Chicago Bar Association

September 21, 2015 at 12 p.m.
Administrative Law Section Meeting
Chicago Bar Association Office
321 S. Plymouth Court
Chicago, Illinois
Topic: Bills recently passed by the General Assembly concerning the Illinois Open Meetings Act

**National Association of
Administrative Law Judiciary**
41st Annual Meeting and Educational
Conference
October 11-14, 2015
Downtown Embassy Suites
Portland, OR

Registration is now open!

All Aboard



IAALJ has planned something fun for you at 5:45 p.m. on July 30, 2015!!!! Boarding time is 5:15 p.m. An Architectural Tour aboard the Tall Ship Windy. This is a 75 minute sailing tour on lake Michigan for only \$50.00. The price includes one free drink in the amount of \$10.00 or less.

Come join us as we explore the coastal waters of Lake Michigan on a fun filled architectural sailing tour of the Chicago skyline on a nostalgic schooner

Bring family, friends, significant others!

Your participation is highly sought, as the event not only provides you with an enjoyable evening, it helps the Illinois Association of Administrative Law Judges continue to provide you with valuable services and information.

Boarding time is 5:15p.m. The ship sets sail at 5:45 p.m. The Architectural Tour lasts 75 minutes. To reserve: contact Claudia Sainsot at: cesainsot@sbcglobal.net or 312 804-2189.

A check made out to IAALJ or cash is due at boarding. Boarding is at Navy Pier on the south side, about halfway down the pier. Look for the sailboat!

About Tall Ships Windy City: Tall Ship Windy, located on Chicago's Navy Pier, is a highly-rated, (by consumers) architectural sailboat provider that brings you exciting boat tours that are educational, creative and inspiring. *Windy* is the lone vessel helmed by US Coast Guard-certified captains and crews.

We are on the Web!

The IAALJ has established a new website on the Internet which we hope will grow and become a significant vehicle for communication and knowledge about administrative law and adjudication in Illinois.

The IAALJ website is at www.IAALJ.org.

The website contains a description of the IAALJ and an application form for new members, along with the names of the IAALJ's Executive Board and its officers. It also contains links to the National Association of Administrative Law Judiciary ("NAALJ") website, the IAALJ constitution and bylaws, the NAALJ Model Code of Judicial Conduct for State Administrative Law Judges, access to the Illinois

Administrative Code, a calendar of events, notices of new judicial and administrative law opportunities and other valuable information.

Please visit the IAALJ website today.

This publication is a free vehicle of communication for IAALJ members. Opinions expressed herein are not necessarily those of the Illinois Association of Administrative Law Judges or the agencies that employ its members.

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The IAALJ is an Illinois not-for-profit corporation committed to the advancement of administrative justice and the professional status of administrative law judges dedicated to government service in Illinois. The IAALJ is the Illinois affiliate of the National Association of Administrative Law Judges.

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Visit the IAALJ website at
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