

DEALING WITH JUDGES, ASSESSORS AND OTHER INFLUENTIAL PEOPLE

Darlene A. Sullivan
Popp, Gray & Hutcheson, LLP
Austin, Texas
(512) 473-2661
darlene@property-tax.com

For property tax practitioners, oftentimes the most influential person in the course of presenting a case before a Judge or a local tribunal is the client. The client may be reasonable or unreasonable, elusive or forthcoming with information, and experienced or inexperienced in property tax matters. All of these aspects shape the negotiations and ultimate resolution of a property tax dispute. That is why understanding your client and knowing how to deal with a potentially difficult client is so important. This paper focuses on how to get even your most difficult client ready for that first meeting with the local assessor, and gives helpful practice tips to effectively communicate with your client and assessor alike.

I. How to Identify a Difficult Client

Sometimes, problem clients are as easy to identify as a sore thumb. Other times, what appears to be a rational, pleasant client can later develop into difficult client. The most common types of difficult clients tend to fall into one of the following four categories: 1) the Unreasonable client 2) the Elusive client, 3) the Know-It-All client, and 4) the “Shady” client. Once you determine you may have one of these types of clients on your hands, you can employ the following tactics to effectively prepare them to engage in negotiations with the local assessor.

II. The Unreasonable Client

The unreasonable client will walk into your office and assert that the market value of his thriving shopping center is \$0. The unreasonable client may also be a client that is convinced that the value placed on his property by the assessor is a “vendetta” against him. Though those two examples may be extreme, the unreasonable client often does have unrealistic expectations of what the outcome of his property tax dispute should be. This type of client has set his mind on an outcome that is generally not supported by facts, or is supported by facts that may not be relevant in the property tax context. It is important to manage expectations with this client and recognize that at the end of the day this client may not be happy no matter what kind of great results you can achieve for him.

In some situations, the unreasonable client will not want to meet with the assessor. They will feel that they have nothing to discuss and want to proceed directly to a hearing. They will find it difficult to meet with the person that they feel has wronged them. With this in mind, it is crucial to communicate to the client the importance and benefits of this first meeting. Your client must be willing to meet in good faith. That means that the client needs to be prepared to have an open mind and be willing to listen to and accept arguments and evidence that may not support his case. To do this, you will need to present to your client some of the possible arguments that the assessor may raise in defense of the value he has placed on the property. To avoid alienating your client when describing the difficulties in the case, let him know you are on the same side. Try using words like “challenge” not “problem” when discussing the negative aspects of the case. Right or wrong, you must respect your client’s opinion. Where there is a shared sense of concern, your client will trust you and you will be able to better prepare him.

- Practice Tip: To deal with an unreasonable client, take the time to explain to the client what your role and duties are as an attorney, consultant, expert, etc. as they pertain to the representation of the client and also as they pertain to your dealings with the attorneys or representatives on the assessor's side.

III. The Elusive Client

Every so often, a client wants you to represent them in a property tax dispute, but they are not prompt in disclosing operating statements, rent rolls, or other relevant information that you need to effectively pursue a property tax appeal. The best way to deal with a client you think may be hiding the ball is to first and foremost, presume a positive intent. Do not immediately assume your client is trying to be deceptive. Explain to your client why the financial documents are needed and find out if there are additional concerns. If your client is afraid that the information provided will end up being part of some public record, make sure that your client feels protected. Many times, nondisclosure or confidentiality agreements will address the client's concerns. Other times, clients are slow to respond to requests because property tax matters may not be on the top of their priority list.

If your elusive client wants to be involved in every aspect of the decision making but is too busy to even return your phone calls, you must put the following guidelines into effect. When dealing with a client that is difficult to reach, plan ahead. Give the client deadlines and sufficient time to meet those deadlines. If possible, encourage your client to delegate some of the decision making to a subordinate. That way, even if he is not available, decisions can be made and you are able to better prepare for negotiations with the assessor.

Every conversation you have with an elusive client is extremely important. You may not get to communicate with your client again until negotiation time, so try to ask the right questions and follow up. Everything a client says us or say reveals something. Your job is to find what that is prior to your meeting with the assessor. To that end, don't interrupt or talk over your client. You may be ending a fruitful dialogue. Also, consider who you are talking to when obtaining the information. Is your client contact a leasing agent who is trained to "sell" the property 10 hours a day? Is there something he may have overlooked about the condition or marketability of the property? In other words, when communicating with your client, always remember the client's context. Be sure you are getting the whole story.

- Practice Tip: Make every conversation a learning conversation.

IV. The Know-It All Client

Inevitably, you will face clients who even though you are the expert, want to tell you how to do your job. As with the other client types discussed above, listen carefully to what your client is trying to share with you and discuss what you envision his role to be in the process. Avoid reciting to your client a long list of successful war stories that may lead the client to have unrealistic expectations. Instead, tell one or two stories that will show you empathize and are competent to help them. Make sure that your client knows they are buying expertise and not simply a temporary employee. Nobody wants to battle the assessor *and* their own client. To prevent this, avoid arguments with your client. Your goal here should be to come to an understanding, not win a confrontation.

Assessors welcome cooperative property owners who are open and forthcoming about their property. However, a know-it-all client may be difficult to control in a negotiations setting, so

make sure that you have discussed the issues and strategy of the case prior to your meeting with the local assessor. Ultimately, if your client has a completely different opinion than you as how the dispute should be handled and insists that it is “my way or the highway,” you may want to consider not starting a relationship with this client or severing an ongoing relationship.

- Practice Tip: Even though you would like to think you can handle every client that may come your way, sometimes you may not be the right property tax practitioner for that particular client or case. Knowing which clients *not* to represent is just as important as knowing which clients to represent.

V. The “Shady” Client

The IPT Code of Ethics number 2 states in part that “IT IS UNETHICAL to engage in any activity that results in a conviction of any crime that involves the tax profession.” Many times, it is the client who leads property tax professionals to violate their professional Code of Ethics. Even if the action or omission by your client does not reach the level of a conviction, be wary of clients that are “shady.” Shady clients may knowingly provide you with inaccurate or deceitful information in hopes that the confidential nature of your relationship will safeguard them from potential repercussions. If your client informs you that the information they have provided is inaccurate, do not use such information in the performance of a tax assignment. In addition, be wary of clients that possess material information to the assignment yet refuse to reveal it. If you are aware that such information exists, you may be required to produce it. Concealing such information is unethical and may be in some instances unlawful.

Shady clients may also ask you to represent them in appeals that are without merit. If you determine that an appeal has no basis in fact, it is your duty to withdraw your appeal as soon as the determination is made. Failure to do so is not only a violation of the IPT Code of Ethics, but it also reflects poorly on your professionalism and character.

- Practice Tip: Do not allow your clients to force you to violate your professional Code of Ethics or your personal Code of Ethics. In doing so, you may lose more than your license to practice.

VI. Conclusion

Whether you have the perfect client or they type of client described above, for effective negotiations, remember that many of the same rules to follow with your client also apply to the local assessor. First, listen openly. Don’t interrupt and don’t assume you have heard it all before. Encourage your client to listen openly to the other side. During the negotiation process, the assessor may reveal some information that may dictate the next move, so listen carefully. Second, encourage your client to judge the content and not the messenger. The most ineffective negotiations take place when one or both of the parties begin to take the discussions personally. Avoid defensiveness. Third, use multiple techniques (i.e. ask, repeat, rephrase) to make sure you understand what is being said and ask for additional detail if necessary. In some situations, the true message is lost and the message heard is very different than the one intended. Fourth, be mindful of your body language and avoid distractions. A majority of the meaning we attribute to words does not come from words but from nonverbal factors. Last of all, have a “Point of View.” Having a point of view is not imposing a solution on a client or guaranteeing a result. Many property tax practitioners are reluctant to offer their point of view for fear that the client will disagree or worse, will agree and settle for nothing less. Being afraid of your client’s response to

your point of view makes the issue about you and not them. To be effective, neither love nor hate the other side and let your client know your point of view.

VI. Do's and Don't's of Difficult Clients

DO Listen to your client

DO try to ask the right questions

DO try to see things from the client's point of view

DO tell your client what to expect throughout the course of your representation

DO attempt to manage your client's expectations

DON'T assume you have heard it all before

DON'T encourage your client to harbor bad feelings of the other party

DON'T fail to respond to your client's questions

DON'T be afraid to fire a client who tries to involve you in illegal or unethical behavior