

## **Liability Outline for Members of Boards, Commissions and Committees**

Members of City boards, commissions, and committees often express concern about being sued in connection with actions taken by their board or committee, or in conjunction with actions they take as committee members. These suits do happen from time to time. They are usually of two kinds:

First, the board's or committee's decision may be appealed. When that happens, the board or commission is most often named as the defendant, but sometimes individual committee members are also named as defendants. In these cases, the City of Madison is the real defendant. The City Attorney defends the board's action. Board members don't take part, other than by furnishing minutes, documents or other records. The appellants do not seek damages. They only want the decision changed.

In the second kind of lawsuit, a manager or individual board or committee member may be charged with violating someone's rights. Civic rights suits are based on statutes that provide damages to persons who suffer deprivation of constitutional rights by officials or employees acting "under color of state law." The City of Madison is insured by Wisconsin Municipal Mutual Insurance Company against suits for damages, including suits against officials acting within the scope of their duties. The City's policy includes legal defense. You act within the scope of your duties if your action is reasonably related to your committee responsibilities. The Mayor and Common Council have determined that officials and employees make better decisions if they do not have to fear litigation consequences.

In this second kind of lawsuit, the City Attorney works with the insurance company and retained counsel has primary responsibility for the litigation. Sometimes committee members are asked to provide information or documents.

Coverage is not available for criminal offenses, ethics or open meeting violations, or intentional violations of known rights.

This is a very brief and general outline of liability issues. If you have questions or concerns about your liability as a City of Madison official, feel free to call the City Attorney's Office at 266-4511 between 8:00 a.m. and 5:00 p.m.