

Q&A With Gilchrist & Rutter's Richard Close

Law360, New York (February 07, 2012, 1:26 PM ET) -- [Richard H. Close](#) is a partner at [Gilchrist & Rutter PC](#), a Santa Monica, Calif., real estate law firm. His practice focuses on real estate, financial and business transactions, and city and state administrative law.

He received his law degree magna cum laude from the Boston University School of Law, and received a Bachelor of Science degree in economics from the Wharton School.

In addition, he was a founder and board of directors member of California United Bank, and has served on Los Angeles city and county commissions. Close has been named a Southern California Super Lawyer and is AV-rated by Martindale-[Hubbell](#).

Q: What is the most challenging case or deal you have worked on and what made it challenging?

A: The most challenging case involved a city government trying to limit a property owner's constitutional right for a fair return on its investment. Although that is a U.S. constitutional right, city action requires approval by elected officials. This creates a unique challenge beyond the law.

When required to make property rights decisions that involve residents, aka voters, elected officials are caught in a dilemma between their own political future and their obligation to comply with the law. When these two goals collide, many elected officials, in order to ensure reelection, put the law second to politics.

For example, after being advised by the city attorney of her obligation under the law, a city council member at a hearing epitomized this challenge with the following statement, "Just because it's a law and just because — excuse my disrespect — but a stupid court makes a decision not based on humanity but the written law, doesn't always mean it's right. ..."

She then proceeded to cast her vote knowingly contrary to state law!

Q: What aspects of your practice area are in need of reform and why?

A: The fact that it is difficult to obtain compensation from a municipality encourages decisions that are legally wrong. Most states, after lengthy litigation, do not reimburse attorneys' fees or damages even if the city decision was legally invalid.

If there was reform in this area, and local governments had more to lose, e.g., damages, they would be more inclined to put the law first, and politics second.

Q: What is an important issue relevant to your practice area and why?

A: Since many cities make decisions irrespective of the law, some attorneys do not realize that

representing property owners requires action that is beyond legal representation. An often overlooked area of municipal practice is the relevancy of lobbying and the political process.

When dealing with a combination of the public, elected officials, city staff and a city attorney, a lawyer must organize and educate all the stakeholders through an outreach campaign. Just because the law is clearly on your side does not mean that you will win before, for instance, a city council or legislative body.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: As a city attorney for several municipalities, William Wynder and I have been fighting each other throughout the state of California for 24 years — he representing various cities, me representing property owners.

What has impressed me is Bill's goal of trying to find solutions that both sides can live with. While this may be common in the private sector, too many "outside" city attorneys are focused on litigation rather than resolution.

As he has stated, "A city attorney explains to a city council what it should do. But the council decides what it will do." Fortunately, Bill and I both realize that a city council's quandary is more complicated than just following the law.

Q: What is a mistake you made early in your career and what did you learn from it?

A: Many attorneys, including myself, initially believe that the lawyer's role is to explain to a client how to comply with the law. As a Wharton School graduate and an attorney, I learned that an attorney's role is to accomplish their client's business goals.

In one real estate transaction early in my career, I was so careful in protecting my client from legal liability I almost "killed the deal." Only later did I learn that the client was so motivated to obtain the property that the company was willing to assume a high level of risk.