

Practical Editing

Dale Frank, one of our newest associates, asked me for feedback on the demand letter she's sending to Anna Gabor, the General Counsel for the City of Eden.

The Barton matter is a pro-bono case, that could become a disability rights class action and would also involve ACTNow, a disability support organization.

I told Dale that I use demand letters proactively to set the stage for a good conversation with the other party.

My goal is to resolve the client's problem quickly and effectively, without litigation.

After reviewing the client matter with Dale, and looking at the file notes, I made a quick list of what I think should be covered under the headings: context, audience, and purpose

I've read the letter through once, just for an overview.

Now, I've pulled up my list and the letter on the same screen so I can see them both. I'm going to use the list to keep track of what's covered and I'll write some margin notes to refer to when I meet with Dale.

Ok, I can see two things right away.

First, on the topic of audience, Dale left out Anna Gabor's formal title as General Counsel.

Anna's title acknowledges her status as the advisor to the city council. That's important.

Leaving her title out, is almost as bad as misspelling her name.

And, on a purely practical note, we want the letter to go directly to her desk and not bounce around the organization.

Second, there is no subject line.

Dale probably meant to come back to it later. I do that sometimes.

The subject line is an attention grabber.

I'm going to try out a strong one that gives the context and announces the purpose. OK, what about, Re: Alice and Charles Barton - City's Garbage By-law violates Human Rights Code.

That might be a bit long, but it will give Dale something to work with.

This is a good opening paragraph. I like the strong, direct sentences stating the letter's purpose, and the Barton's primary demand for an immediate exemption.

Ok, the second paragraph tells the Barton's personal hardship story. But, I think it misses a lot of context details that we need to persuade the General Counsel that the by-law creates an unacceptable financial, physical, and emotional hardship.

I'm looking under the context heading, I think Dale needs to add all of these facts to this paragraph.

All right, the third paragraph is a good basic statement of our legal position – that the by-law discriminates based on family status.

Once Dale adds some more context to paragraph two, the letter will be a stronger statement that the city faces a credible class action lawsuit; that should get the General Counsel's attention.

At the same time, Dale hasn't argued the legal case or cited any case law, which I think is good.

Putting in too many details on the legal arguments runs the risk you will turn the demand letter into a legal debate.

For this letter, Dale wants the Barton's circumstances to illustrate the legal argument. I also like that Dale has warned that the class action suit could cover disability issues.

That will resonate with the general counsel who needs to ensure that all by-laws comply with accessibility standards. So that really hits the mark for this audience – that's good.

Also, I like that she reemphasized the adverse impact by mentioning that the landfill is far away.

And again, once she adds to paragraph 2 that it is a 90 minute trip, the general counsel will get the picture.

Alright, second to last paragraph is important. Here is where Dale expands the demand from an exemption for the Bartons to now include making the types of changes to the by-law that will ultimately be the demands of the class action. And Dale offers to negotiate. This paragraph hits on the remaining purposes – that's good

Ok, But what this letter doesn't do yet is acknowledge, in a positive way, the City's goals to cut costs and reduce waste.

I think Dale needs this if she is going to start a good dialogue and potentially turn Anna Gabor into an ally by meeting some of her interests.

So I am going to suggest adding either a phrase or a separate sentence on the city's goals to cut costs and reduce waste.

And looking back at my checklist, I think I'll suggest Dale add something about holding a press conference to make the threat of negative publicity explicit. That's on checklist under both purpose and audience.

The last paragraph has this demand letter's carrot –

Here Dale reminds the City's lawyer that our clients and the city have common goals. An amicable settlement, a city that is family-oriented, and services that meet accessibility standards.

At the same time, Dale maintains control. She's not going to wait around for Ms. Gabor to phone.

Dale's going to move things along by phoning Ms. Gabor.

Ok is there anything missing?

The letter doesn't mention that the city manager already declined to give an exemption. I listed that under Audience. I'll ask Dale if she thinks the General Counsel needs to know that. That fact might head off the general counsel's impulse to bounce the issue to the city manager.

Oh, and the letter doesn't make it clear that ACTNow will take an active role if there is a class action. That's an important part of the context.

So those are two other items to discuss with Dale. Ok, I think we're good. I think a 15 minute meeting is all Dale and I need.