

DAVE McARDLE

His Law Firm Was Hard to Find, Harder to Leave

by Mike Bailey

CRYSTAL LAKE—As a young law student at the John Marshall Law School in the early 1980s, David McArdle already knew the Cook County court system.

Originally from the south suburbs where he graduated from Homewood-Flossmoor High School, McArdle held down five different jobs while at John Marshall, four of them requiring experience and knowledge of one of the

It's a very large system."

A routine job posting for an attorney in Crystal Lake—at a firm that ultimately became **Zukowski, Rogers, Flood & McArdle**—drew his interest.

"I couldn't have found McHenry County on a map," he recalls. It was an inauspicious beginning for a man who is now legal counsel for several communities in McHenry County

for over two hours. It was July, humid, and I was wearing a suit that didn't breathe."

To add to the frustration, the street numbering system in Crystal Lake requires extensive local knowledge that McArdle didn't have. "I walked up and down past the law offices a couple of times before I found it. Former senior partner David Rogers said he saw me and wondered what a guy in a suit was doing walking up and down the street on a day like that. I was drenched, soaked through."

Although he had trouble finding those offices, he'd discover he'd have more trouble leaving them.

"That was nearly 30 years ago. I never wanted to leave. I live a few minutes from the office. This is home," he says.

Either You're Doing It or You're Not

Since that hot July day, McArdle married his law school sweetheart Susan ("We sat next to each other in our first law class") and they raised son Adam, a recent Purdue graduate with a degree in project management, and daughter Megan, a University of Illinois graduate who will enter medical school in the fall. Susan is no longer active in the legal field. She worked for a time with the public guardian's office in Cook County which—among other things—oversees the assets and welfare of the mentally challenged.

McArdle did not intend to focus on construction law, but like many careers, it was thrust upon him.

"I represented a man named Marvin Frisch of Crystal Lake," he recalls. "He was a local contractor who also had a law degree. We did a lot of work together, mostly collection cases and allegations of defective work. We tried a lot of cases and I learned a lot from him," he says.

Construction law is a narrow slice of the legal code, he says, and not an area many lawyers dabble in. "Either you're doing it or you're not."

About 50 percent of McArdle's practice is construction law, and in response to the many questions his office fields, he and his partners Kelly Cahill and Regan Shepley have written the



most Byzantine county court systems in the United States.

None of that would prepare him, however, for the long and challenging legal career ahead as one of the most respected attorneys in McHenry County.

"I had five jobs before I graduated in 1981," McArdle recalls. "I clerked for the U.S. attorney's office, the Cook County state's attorney's office, the Cabrini-Green Legal Aid Clinic and two private firms. That wasn't easy,

and is one of a handful of construction law practitioners.

"But, it was a job, so I applied and was invited out for an interview. I assumed all the law offices would be right around the train station like they are in Wheaton, so I took the train out to Crystal Lake."

But Crystal Lake is not Cook County or even DuPage County, and McArdle quickly realized his mistake. "The train station was miles from the law office," he recalls. "I walked

Construction Law Road Map, 2009 Handbook, which is available through the firm's website. The purpose, McArdle says, is to answer many of the common questions that arise in this area of law. The book has been issued and distributed by the Illinois Road and Transportation Builders Association (IRTBA) to its statewide membership. McArdle has been an IRTBA member and has provided legal advice to the association for more than 15 years.

The economic slowdown has dramatically affected growth, development and construction projects in McHenry County, one of the fastest growing counties in the Midwest until the recession.

"It's all mechanics liens now," he says. "The mortgage holder wants to foreclose on a small shopping center and, at the hearing, nine lawyers will stand up, all representing the subcontractors. The walls and roof are up, maybe plumbing is in and the mortgage holder doesn't want to pay (those subcontractors). They are already \$1 million or so in and they know there are no buyers. They want to settle short. It takes months to go through the courts and in the meantime, these small outfits have legal bills and no work. A lot of them fold up or move away."

McArdle Gets Right to the Point

Some cases are even more entangled, and one large case involving the \$45 million Tuscany Woods subdivision in Hampshire (Kane County) made case law. "It became a battle of appraisers," McArdle says. "My guy built the roads for the subdivision before the builder defaulted. The bank wanted us to prove how much those roads improved the partially-built subdivision. So we get an appraiser and the bank gets one and it drags on. They finally settled short. The law was not set up to handle this volume or these kinds of cases," McArdle says. "This is all I do anymore. No one walks into my office and says, 'I want to develop 100 acres.' What we do now is try to reduce the

loss for our clients."

McArdle says he believes banks are now the largest landholders in the county, a fact that may depress the local economy for a long time to come. "If the banks were to dump some of this property at low prices, it would drive down everything else," he says. "It's hard to appraise these projects when there are no buyers."

About a third of McArdle's practice is municipal law. He currently serves as legal counsel for the city of McHenry; the villages of Prairie Grove and Richmond; and the Fox Valley Waterway Agency, a body that oversees the Fox River and the Chain O' Lakes in McHenry and Lake counties.

Attorney Steven Cuda, with the Woodstock firm of Hamer, Schuh & Cuda, remembers hiring a young McArdle to be the McHenry city attorney in 1993. Cuda had just been elected mayor and wanted a practical, no-nonsense approach to city business.

"I like someone who is thorough but who gets right to the point. I was the opposing counsel on some cases with David and that is the kind of lawyer he is. When I was elected mayor of McHenry, that's what we wanted so we hired David."

Cuda served as McHenry mayor for eight years and returned to private practice, but McArdle's style and experience has endeared him to succeeding village boards.

But it wasn't always sound legal advice that engendered Cuda's respect. "You know, sometimes as lawyers, we like to believe we know more than everyone else," he recalls sheepishly. "So at these village board meetings, I would argue with other board members over relatively minor points. One day David pulled me aside and said, 'Steve, the mayor only has so much goodwill. Use it for important issues. Let the other board members decide the smaller issues (like trick or treat hours). Fight for what's important.' He was right. And I found they did want to know what I thought about big issues when I let them decide the smaller ones."

The Rise and Fall of Development

While today's meetings are devoid of development issues, it wasn't always that way.

"Back in the '80s, I represented the Lake in the Hills Sanitary District," he says. "The district was responsible for handling the western area of Randall Road which was undeveloped at the time. We used to meet in a garage and sit at a folding table. One night a developer walked in with the largest set of plans I have ever seen. There were literally hundreds of pages and about 1,000 lots. This was a full set of engineered plans. He wanted to annex this land to the village of Lake in the Hills and the sanitary district. He said, 'These are my terms. Take them or I go to Crystal Lake (a larger, nearby city.)'

"Well, at that time the sanitary district was handling about 15,000 people. This project would require us to expand across Randall Road and build lift stations. The money he was offering was short."

That started one of the most contentious annexation battles in northern Illinois. Today, that property is within the Lake in the Hills village limits, but only after a protracted and nasty battle.

"Back then, towns and villages were unsophisticated," McArdle says. "We learned as we went. Annexation was not a word we used that often."

Although his background in municipal and construction law has served him and his law firm well over the years, the construction slowdown has made for a less interesting experience. Now the meetings are pretty short. There are no developers on the agenda anymore.

"Here," he says, grabbing a recent village board agenda. "Sign variances. We spent an hour on those."

These are rather lean times for a man named by his peers as a Super Lawyer in Illinois in 2007. ■