

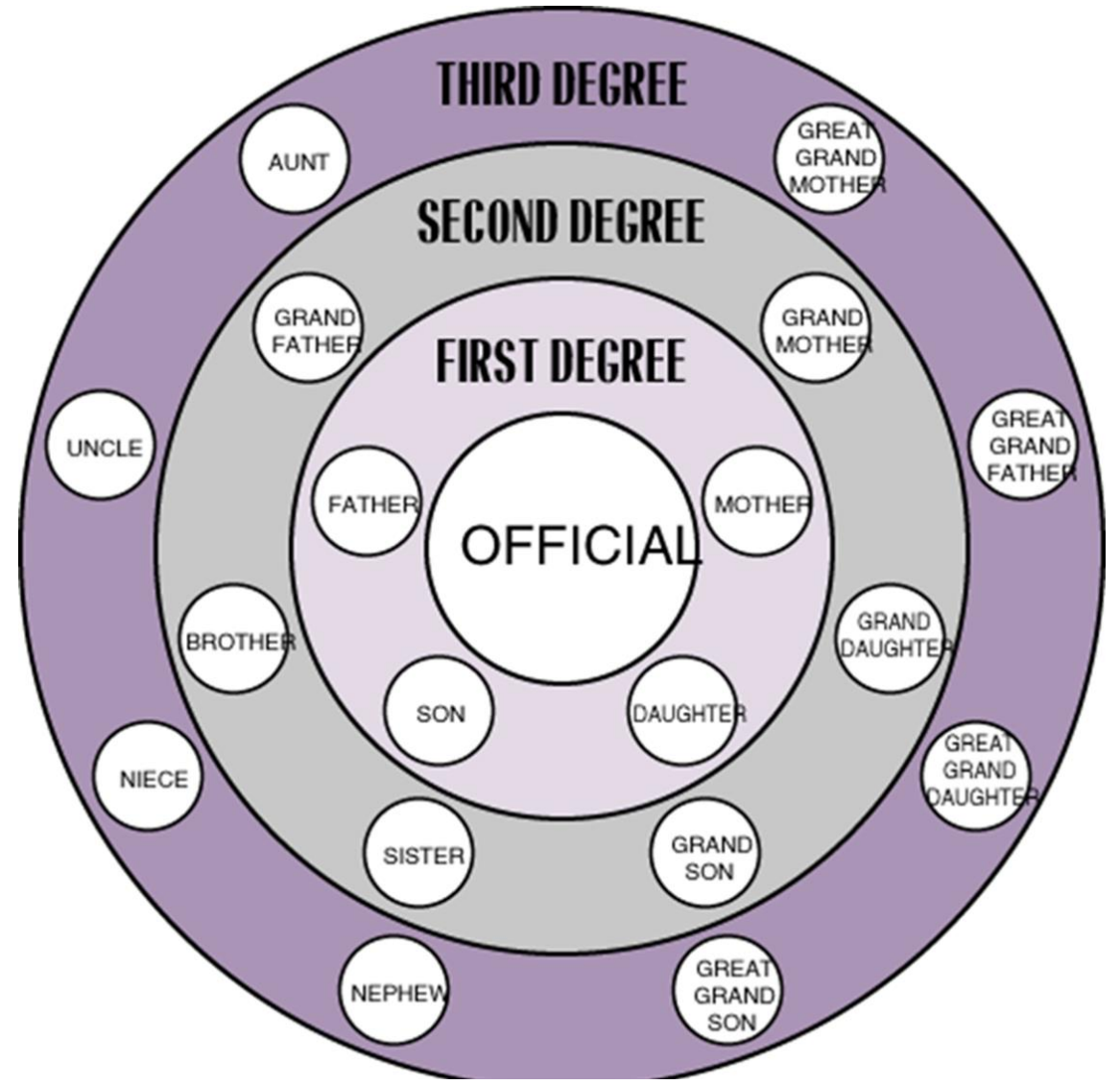
# Small Flowers Crack Concrete

An interactive presentation  
on managing conflicts by  
Daniel (SA) and Megan  
(AUS) Santee



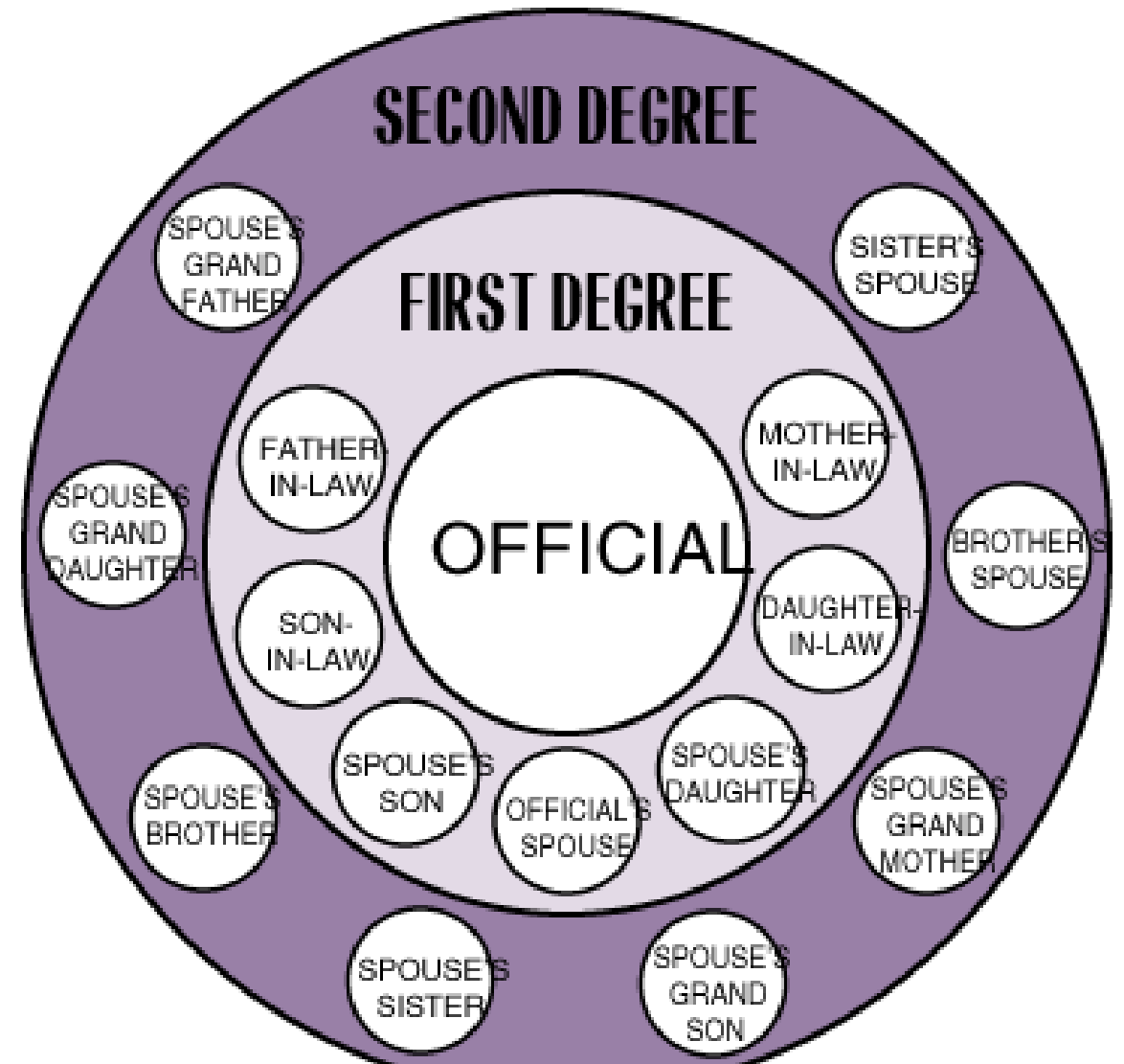
# 3RD DEGREE OF CONSANGUINITY

---



# 2<sup>ND</sup> DEGREE OF AFFINITY

---





# Hypothetical Type A General Law City

# Hypothetical Facts for Presentation

Dan and Megan return to Dan's hometown and despite all that he has learned at DNRBZ, Dan files to run for city council and nobody else files for the open seat so he is elected.

Dan is a Fighting Badger, Class of '87 and has many family members who still live in the area

Merkel has a mayor and five council members

Population is approximately 2,600

General law Type A, council-manager form of government

# Creating a Consanguinity/Affinity Chart

- For purposes of compliance with the requirements of LGC 171, LGC 176 and GVT 573, Dan decides he must create his own Consanguinity/Affinity Chart.
- LGC 171 a local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity
- LGC 176 disclosure, “family member” means first degree by consanguinity or affinity for the local government officer and
- LGC 176 disclosure, “family relationship” means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity.
- GVT 573, A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if they are related within the third degree by consanguinity or within the second degree by affinity.



# Scenario 1

Merkel decides to accept bids for the construction of a new wrought iron fence around city hall

My nephew who owns a welding business submits a bid

Which statutes are applicable?

What actions must be taken by those involved?

What would change if it were my brother instead of nephew?

What would change if it were my brother-in-law?



# Scenario 2

One of my sister's husbands is a developer

He has purchased land in the ETJ and wants to be annexed and zoned

It will be a tiny home development

He is also seeking HOT funds because it will be designed like a Hobbit Shire and the units will be rented as short-term rentals

Megan's sisters have formed an LLC and own a small multi-family development within the notification area for the zoning case which comes forward with a recommendation of approval

Megan represents the LLC as legal counsel

Assuming the matter is properly before the council, what are my obligations?



# Scenario 2 Cont.



What if the Developer is my father-in-law?



What if my personal residence is within the notification area?



What if Megan is part of the LLC rather than just legal counsel?



## Scenario 3

- Sticking with zoning...Dan and Megan speculatively purchased a vacant parcel of commercial property at the western city limits along Interstate 20
- A developer has requested rezoning of a vacant parcel roughly a  $\frac{1}{4}$  of a mile east of the parcel for a proposed multi-family development
- The rezoning case is very divisive in the community and though it receives a recommendation of approval from the P&Z, because it complies with the Comprehensive Plan, it is protested sufficiently to require a  $\frac{3}{4}$  council majority to be approved

# Scenario 3 Cont.



When the case is heard by the City Council, the Mayor is not present and one council member is absent, leaving four members of council to hear the case



One of the four council members is within the notification area and files an abstention and does not participate



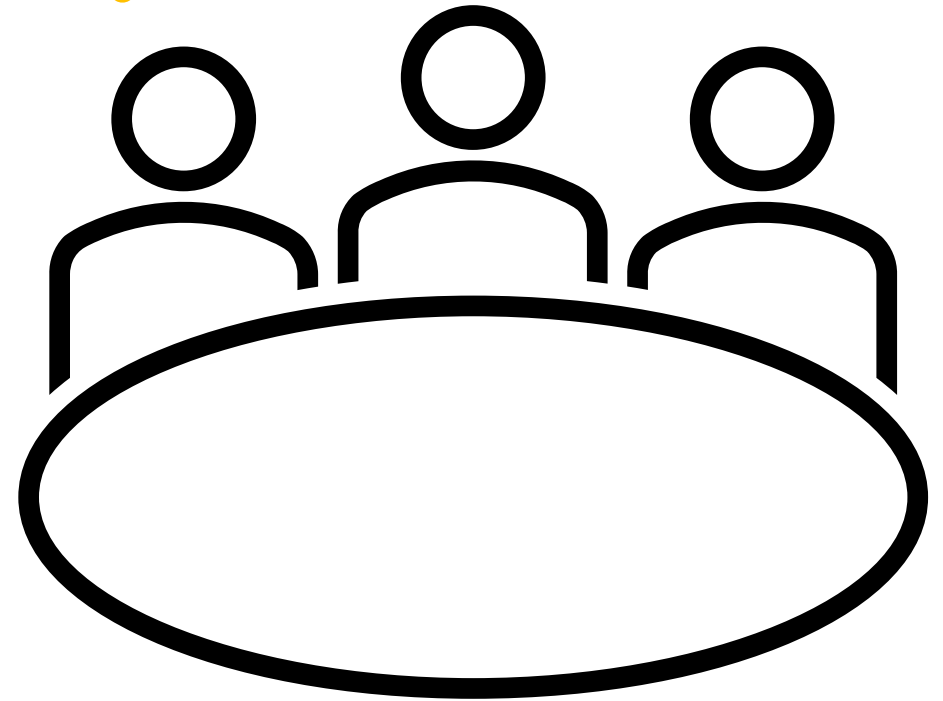
Dan does not file an abstention, and participates along with the remaining two members



Dan votes in favor, councilmember 2 votes in favor, councilmember 3 abstains, councilmember 4 had filed an affidavit and abstains

## Scenario 3 Cont.

- Councilmember 3, who abstained without filing an affidavit, and is running the meeting as Mayor Pro Tem, declares the item has failed.
- Councilmember 3 further states that Dan should have abstained due to the parcel of land he owns  $\frac{1}{4}$  mile west of the subject property
- Did the item fail or pass?
- Should Dan have filed an affidavit?



# Questions?

## DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

San Antonio Office	Rio Grande Valley Office	Austin Office	Texas Gulf Coast Office
2517 North Main Avenue San Antonio, Texas 78212-4685 Phone (210) 227-3243 Fax (210) 225-4481	701 East Harrison Suite 100 Harlingen, Texas 78550-9165 Phone (956) 421-4904 Fax (956) 421-3621	2500 W William Cannon Drive Suite 609 Austin, Texas 78745-5320 Phone (512) 279-6431 Fax (512) 279 6438	549 N. Egret Bay Blvd. Suite 200 League City, TX 77573 Phone (832) 632-2102