

*“Housing Now!”*  
*Basic Negotiation*

**Instructor Notes  
& Background**

**Title**

Housing Now! (Basic Negotiation)

**Skills Addressed**

Negotiating, resolving conflict

**Target Audience**

2Ls and 3Ls

**Overview**

This is a basic negotiation scenario focused on negotiating a housing development agreement between a nonprofit housing advocacy organization (Housing Now!) and a small suburban community (Veblen Village). Housing Now! is hoping to build affordable housing in Veblen Village and needs assistance and permissions from Veblen. Students play the role of lawyers for the two parties and are provided with detailed information about the party’s interests and authority. The scenario is designed for use in one class period (less than two hours):

1. Preparation / reading the materials (5 minutes)
2. Meeting with partners<sup>1</sup> to prepare strategy (or preparation time for students working alone) (1/2 hour)
3. Meeting with the other side to negotiate a resolution (1 hour)
4. Collection and comparison of deals (or last proposals, if no agreement) and discussion

### **Scenario Background**

Housing Now! (“HN”) is a small non-profit organization that creates affordable housing for the homeless. HN has only been in existence for one year and just completed its first and only housing project, a 12-unit apartment building located near the state capitol in St. Paul.

HN has been in discussions with Veblen Village, a wealthy outer ring suburb of Minneapolis, for the past few months about building a housing complex that would focus on low-income tenants. The tenants would have to meet certain financial criteria to qualify. Zoning must be addressed. Veblen Village has no land zoned to allow multi-family dwellings (e.g., apartment buildings).

HN had selected Veblen Village for its next project for a number of reasons – Veblen Village has the lowest crime in the state, has more park land per resident than any of its neighbors, and is connected to downtown by numerous transit options, including a new four-lane freeway and a brand new light rail system. In addition, HN’s mission statement specifically states that its goal is to address the lack of affordable housing outside the central cities of St. Paul and Minneapolis.

Early discussions between Veblen Village and HN were very productive; so much in fact, that HN had gone ahead and purchased a large plot of land in Veblen Village from a local developer at a fairly reduced price of \$200,000. HN has also hired a number of subcontractors to begin the work, many of whom have already begun making preparations and scheduling work (and sending invoices to HN).

Veblen Village has embarked on a public relations campaign to improve its image in the region. For several years, Veblen has been attacked in the press for its “exclusionary” housing policies and its failure to become more economically integrated.

---

<sup>1</sup> Traditionally, this exercise is used fairly early in a negotiation course as an introduction to interest-based negotiating. Putting the students in pairs has helped ease student anxiety and provide support between partners who can share their understanding with one another in implementing the approach.

Each student receives background information and instructions from the client. The instructions include clearly articulated client interests and authority parameters.

### Learning Objectives

- ✓ Introduce basic negotiation concepts using an easy-to-understand public policy negotiation
- ✓ Understand how to organize information about client interests
- ✓ Put into practice basic concepts and techniques of interest-based negotiating.

### Possible Debriefing Points:

1. Addressing all of the client's concerns. Using examples from the class, discuss the positive and negative provision in the deals. What is missing? What issues were neglected? What creative solutions were included and what did they accomplish? Students were provided with detailed lists of all of the issues that mattered to their clients, helping to make the point that lawyers must endeavor to understand the full range of what the client hopes to achieve in a deal.
2. Understanding Some Complexity about Interests. Students often think of interests in a very flat way. They may think of interests as the needs or wants or concerns of a party, but that is about as far as their thinking sometimes goes. The exercise is designed to point out at least a few of the distinctive elements of interests that are worth understanding as part of negotiation analysis. The basic elements explored here are i) the substantive interest (what exactly is the interest – e.g., town's public relations, ensuring access for the very low-income); ii) the importance of the interest (is it critical or not important – here the points are not all equal; some things matter more than others); iii) the relationship between interests (are the interests of the two parties the same, opposed to one another, or just different but not opposed).
3. Evaluating and Assessing Potential Agreements. How should students measure the value of a possible deal? Is a potential agreement preferable to the consequences of all deal (not just BATNA, but all of the consequences that may accompany no deal and the related harm to interests)? How did the student-attorneys calculate the costs of no agreement? What were the consequences to each party (their client and the other side) of no deal?
4. The role of "justice" or other factors arguably unique to these types of disputes. How can a party find "justice" through compromise, particularly where the party may feel so committed to particular demands, as here? Working through a full set of client interests, including issues of justice and even policy, may be particularly important when working with clients in these types of public policy cases. Other issues matter to clients, too, so helping them see how no agreement may undermine those concerns helps clients think more carefully about whether to accept a possible deal.

5. The architecture of a negotiation and the importance of stages. This scenario is traditionally used early in a negotiation course, where topics like agenda-setting and information-gathering have yet to be put into practice. Too many times, students without training will launch into proposals immediately after discussions begin, for example. The scenario provides enough breadth to explore how critical it is to understand how the negotiation will take place (agenda) and what information is required in order to craft optimal proposals (and evaluate them).

### **Handouts**

1. Role information for the attorneys for Housing Now!
2. Role information for the attorneys for Veblen Village