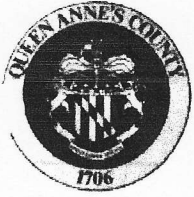


QUEEN ANNE'S COUNTY ETHICS COMMISSION



*Queen
Anne's
County*

The Liberty Building
107 North Liberty Street
Centreville, Maryland 21613

Telephone 410-758-4406
Facsimile 410-758-6913

Tina Miles, Clerk
Lynn Knight, Attorney

The Ethics Commission

Robert Mueller, Esquire, Chairman
Kendall Ruffatto, Esquire
Reverend Nanese A. Hawthorne
Benjamin C. Tilghman, Jr.
Harold O. Wilson
Neal Jackson, Esquire, alternate

Advisory Opinion of January 29, 2010

The Ethics Commission has reviewed a request by a member of the Board of Commissioners of Queen Anne's County ("Requestor") dated January 12, 2010, for an advisory opinion regarding a *potential conflict of interest for two applicants for positions on the County Planning Commission*. The Commission, as is required by law, reviewed the request at a meeting on January 20, 2010. The Commission considered the facts that were provided regarding each individual's circumstance that may create a conflict of interest.

Section 8-10.F., Queen Anne's County Public Ethics Law ("Ethics Law") provides: "Any person may make a request to the Commission for an advisory opinion concerning application of this chapter. The Commission shall respond within a reasonable time to the requests of persons governed by this chapter, provided that the facts are furnished or reasonably available to it. . . . Copies of the responses shall be made available to the public, subject to any applicable state or county law regarding public records. Information which may identify the person who is the subject of the opinion shall be deleted to the fullest extent possible from advisory opinions."

In the case of Subject 1, those facts were provided by the Requestor in the form of the subject's handwritten financial disclosure statement, signed on September 24, 2008, and filed with the county. That disclosure statement disclosed that (1) he is the owner of a business entity which was described as being in the business of "real estate brokerage, consulting, development & construction, [and] investments," and (2) through that business entity, he has ownership directly, with another named person or through various partnership arrangements of some 25 parcels of property in Queen Anne's County. These had addresses from Stevensville, Queenstown, Grasonville, Chester, to Sudlersville. They included residential and commercial lots as well as acreage, including a farm near Queenstown and a parcel of 50 acres described as being at Sudlersville. The Requestor described the farm as being "a large parcel of property currently under consideration for development..."

Regarding Subject #1's application to be a member of the Planning Commission, the Commission determined that, due to the breadth of his employment in the real estate and development field in the County and the extent of his real estate holdings, holding a position on the Planning Commission would be a violation of the Ethics Law § 8-11.A(2). That provision specifically prohibits a board or commission member from "being employed or having a financial interest in an entity that is (a) subject to the authority of that official or employee or the governmental unit with which the official or employee is affiliated." The value of the extensive and diverse property interests owned directly or indirectly by Subject #1 through a variety of entities (including himself) will inevitably be affected by decisions made by the Planning Commission even if the decisions are with respect to applications concerning unrelated property interests. Policies established in connection with those issues, as well as generalized policies which the Planning Commission must inevitably establish and on which it must advise the County Commissioners, will inevitably affect the value and ability of Subject #1 to maximize the return on investment on the property interests held by him. In short, this is not a situation where Subject #1 could simply excuse himself from an occasional matter before the Planning Commission. It appears that his properties will be regularly and materially affected by the actions of the Planning Commission.

For Subject #2, his daughter's employment with an engineering company doing extensive business in Queen Anne's County creates a situation in which there is "direct financial impact" on her anytime that this engineering company provides services before the Planning Commission for an applicant or other party. In this context, unless Subject #2 recused himself from any involvement with any such matter before the Planning Commission, he would be "...acting on behalf of the county in any matter that would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them or a family member..." as prohibited by Ethics Law § 8-11.A(1). Accordingly, Subject #2 could serve on the Planning Commission, but he must recuse himself from *all* matters before that body in which this engineering company would be participating.

Advisory Opinion 10-01