



ETHICS COMMISSION
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Summary of Advisory Opinions Dated March 20 and June 18, 2014

The Annapolis Ethics Law, City Code 2.08.030.C.2, provides that the Ethics Commission may, at its discretion, publically provide extracts from or summaries of advisory opinions. The Commission provided an advisory opinion to an Annapolis elected official on March 20 and June 18 in four parts. The first part was determined to remain confidential because of the personal nature of the advisory request. The other 3 parts are summarized below because of their usefulness to the public, City officials, and members of the City Council.

Fundraising

The question was does the Ethics Law prohibition of Section 2.08.040.F.1 “An official or employee may not solicit any gift” apply to all fundraising activities, both within and outside the City? In considering this question, the Commission restated the question as “Does the prohibition, ‘An official or employee may not solicit any gift.’ include a prohibition from soliciting a gift for the benefit of a non-profit third party by an official who experiences no monetary gain or benefit?” Our conclusion was that the solicitation of gifts or donations for non-profit third parties is not prohibited as long as the solicitation is not to a registered lobbyist.

It was the Ethics Commission’s opinion that Section 2.08.040.F.1 does not prohibit the solicitation of gifts to be given to non-profit charitable institutions within or outside of Annapolis. We add that City officials and employees must be ever vigilant that any words, spoken or written, never give an indication that the donor will in any manner whatsoever benefit from any action the official or employee might take as a result of the gift. It would always be best whenever practical if funds did not flow through the official’s hands. We should always keep as a guide that City officials and employees should avoid not only words and behavior that are inappropriate but also that might give the appearance of impropriety.

Rental Properties

An elected official with financial interests in rental properties located within the City has reported those interests on financial disclosure forms. The official sought confirmation that said disclosure is sufficient under the exceptions to “Prohibited conduct and interests” set forth in 2.08.040.B.2.d which states the prohibitions of paragraph 1 of the subsection do not apply to “Employment or financial interests allowed by regulations of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.”

Because of the elected official's direct financial interest in rental properties in the city, the elected official is prohibited from participating on matters which affect rental properties in Annapolis. The financial disclosure requirements of the City Code stand alone and do not exempt any employee or official of the requirements of other sections of the City Code including, but not limited to, the prohibited conduct and interests set forth in City Code 2.08.040.

It was the opinion of the Ethics Commission that an elected official who owns rental property within the City must recuse themselves at all levels of consideration and discussion from any matter before the City Council which has a direct effect on rental properties in Annapolis. The ownership of an Annapolis rental property, though, does not disqualify the elected official from voting on broader issues before the City Council, such as the budget.

Use of an Elected Official's Residence to Benefit Non-Profit Organizations

The Ethics Commission was asked if it would be acceptable to allow non-profit organizations to include an elected official's residential property on house or garden tours and, if so, would it be necessary for the elected official to remain inaccessible or offsite while such tours take place.

In considering this request it was the opinion of the Ethics Commission that such use of the property is covered by the Ethics Law under City Code 2.08.040.E, Use of Prestige of Office, which provides that: "An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another" and "This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation."

The Commission found that such use of an elected official's property by non-profit 501(c)(3) organizations would not be considered for "private gain" and that, if it was mentioned that the property owner was a City elected official in the tour solicitation and property description, such use would not be considered as "intentional use of prestige of office". The Commission also found if the use of the property is provided to an Annapolis based non-profit 501(c)(3) organization, that such use may be considered as "constituent services" and it would not be necessary for the owner to remain inaccessible or offsite while such tours are taking place.


James E. Dolezal
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