



ETHICS COMMISSION
c/o CITY OF ANNAPOLIS OFFICE OF LAW
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CITY LIAISON:
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June 23, 2021

MEMORANDUM

To: Ms. Diane Butler and Mr. Chris Ledoux

Subject: Final Determination Regarding the April 15, 2021, Planning Commission Meeting

On April 23, 2021, a complaint was filed with the Ethics Commission by C. Christopher Ledoux alleging that a member of the Planning Commission, Diane Butler, violated a provision of the City Ethics Code addressing conflicts of interest. Annapolis City Code, Section 2.08.040(A)(1)(a) provides, in relevant part, that “an official or employee may not participate in ... any matter in which, to the knowledge of the official the ... official ... has an interest.” Interest, as defined in Section 2.08.020.A.9, means “any legal or equitable economic interest ... which was owned ... directly or indirectly.”

The complaint involved Ms. Butler’s participation at the April 15, 2021, proceedings of the Planning Commission and its consideration of Ordinance 0-7-21, Short-Term Rental Licenses. Ordinance 0-7-21 is legislation currently before the Annapolis City Council that would require certain property owners to obtain a special exception approval from the Annapolis Board of Appeals before being issued a new Short-Term Rental Unit Operating License. Specifically, this new special exception would apply only in certain zoning districts and only to “non-owner occupied” property owners. The new requirement would not apply to owner occupied properties.

Mr. Ledoux’s complaint was based on Ms. Butler’s apparent conflict of interest in participating in the Planning Commission’s review of the legislation because of her ownership of an owner-occupied short-term rental. In the April 15th Planning Commission meeting, Ms. Butler indicated that she may have a conflict of interest and would recuse herself from voting but desired to participate in the deliberations to express her experience in getting a short-term rental license.

A June 7th e-mail invited both Ms. Butler and Mr. Ledoux to appear before the Ethics Commission in a Zoom meeting at 5:30 on June 16th. The e-mail served as a charging document which alleged that Ms. Butler did not recuse herself from Planning Commission deliberations of the Ordinance and, because of her ownership of an owner-occupied Short-Term Rental, she did

not comply with the Ethics Code conflict of interest provision, City Code 2.08.040.A.1.a. Ms. Butler responded to the Charging Document on June 15th.

In her response and in testimony at the June 16th Ethics Commission hearing, Ms. Butler indicated she was not trying to influence her fellow Planning Commissioners but merely trying to convey her experience in getting a short-term owner-occupied rental license and to compliment the staff for their competency. She noted that the Planning Commission Chair decided to allow her to participate in the debate and the other Commissioners agreed, and she advised none of the attorneys present objected to her participation. In addition, Ms. Butler indicated she did not attend the May 6th meeting of the Planning Commission because she felt it was inappropriate for her to participate in any further discussion of the Ordinance. She did attend the May 20th Planning Commission meeting where she recused herself by withdrawing from the Zoom meeting during their review of the Ordinance.

During the June 16th hearing Mr. Ledoux reiterated the reasons for his complaint as outlined in his April 23rd complaint to the Ethics Commission, i.e., the Ordinance would create an additional barrier to entry for non-owner-occupied short-term rentals that would not apply to owner occupied short-term rentals; the Code does not provide for partial recusals; and, at the very least, Ms. Butler's conduct created the appearance of a conflict of interest.

The Ethics Commission, after considering the written materials submitted by the parties and the evidence presented at the hearing, finds that Ms. Butler unintentionally did not comply with the conflict of interest provision of the Ethics Code as a result of her participation during the public comment period of the Planning Commission's meeting on April 15 concerning Ordinance 0-7-21. While the Ethics Commission recognizes her participation was solicited by the Chair with the concurrence of the other members and without any objection from the attorneys present, and her intent was to be of assistance to her fellow commissioners, these actions do not supplant the provisions of the Ethics Code. After the April 15th Planning Commission meeting, she appropriately did not participate in any follow-on discussions related to 0-7-21. We consider her intended partial recusal on April 15th to be an innocent mistake, not worthy of any enforcement sanctions allowable in the Ethics Code.

In accordance with City Code 2.08.110 this final determination will be posted on the City's web site.

Sincerely,



James E. Dolezal
Chairman

cc: Chair and Members of the Planning Commission
Mayor and Alderpersons