



ETHICS COMMISSION
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Summary of October 12, 2017, Advisory Opinion

Re: Advisory Opinion on Marine Construction Applications

A former city employee on October 5, 2017, requested an advisory opinion as to whether their engagement in two marine construction applications would violate Annapolis City Code Section 2.08.040.C.1. That section provides:

“A former official or employee may not assist or represent any party other than the City in a case, contract, or other specific matter involving the City if that matter is one in which the former official or employee significantly participated as an official or employee.”

The former employee had served as staff to the Board of Port Wardens and had discussed application procedures and requirements for marine construction with property owners and/or their representatives pertaining to City Code Title 15, as well as State and Federal requirements. They had reviewed applications and after finding them consistent with all regulations, referred them with a recommendation to the City’s Board of Port Wardens.

The first inquiry arose from a contemplated engagement in an application for reconstruction of an existing pier where the former employee had recommended approval of the original pier. While they declined to participate in the hearing they inquired if “participation in prior applications on properties be considered ‘significant’ and so preclude their involvement with new applications for the same properties?” The Commission declined responding to this inquiry as it was a hypothetical question without the specific facts necessary for the Commission to determine if the prior participation was significant.

The second inquiry concerned an application for reconstruction/reconfiguration of an existing commercial marina. It was noted the former employee discussed with the property owner the regulations involved in what was then a conceptual plan and that they participated in a discussion regarding the plan with the property owner and an adjacent condominium association. The former employee was asked by the property owner to participate in the hearing before the Board of Port Wardens regarding the property owner’s application for the marina reconstruction. The Commission advised that this participation would violate Code Section 2.08.040.C.1. As a City employee, they had

participated in this "specific matter" and that participation had been "significant" as they provided advice to the property owner in the context of the conceptual plan and had participated in a meeting regarding the proposed application with a third party.

As allowed by City Code 2.08.030.C.2 it was determined that a summary of the advisory opinion would be publicly posted to the City's web site because of its usefulness to current and former employees of the City and the interest of the public.


James E. Dolezal
Chairman