

BEFORE THE KENT COUNTY ETHICS COMMISSION

R. Stewart Barroll
Chairman

October 21, 2016
Advisory Opinion 2016-1

Absent an exemption, an official appointed to a County board or commission must not hold any employment that would impair that official's impartiality or independence of judgment. A member of the Economic Development Commission ("EDC") asks if he or she can take a part-time/contract position as a Government Affairs Director for the Bay Area Board of Realtors and the Maryland Association of Realtors. The member would be an independent contractor, not an employee. The Commission concludes that he or she could take the position of Government Affairs Director while a member of the EDC so long as he or she does not represent either of the Realtors entities in any matter before the EDC. Neither could he or she work on any matter for the Realtors entities where the EDC is a party to that matter.

The Economic Development Commission

The powers and duties of the EDC are of an advisory nature only. The members of the Commission have no authority to incur any obligations in the name of the County, and serve without compensation.

According to Chapter 1 of Article I of the Kent County Code, the duties of the EDC are as follows:

- A. To facilitate the activities of the Economic Development Commission.
- B. To promote the economic development of the county by attracting additional industry, commerce, and tourism.
- C. To gather, maintain, and disseminate information concerning industrial sites and commercial sites throughout the county.
- D. To gather and disseminate information concerning the historical and cultural aspects of the county.
- E. To act as the county's official liaison agent with persons interested in expanding existing businesses currently in the county or with persons interested in locating businesses in the county.
- F. To form partnerships of industry, city, state and national and private agencies in promoting the purposes of economic development.
- G. To serve as ombudsman for all businesses and industries in the county in the resolution of any community problems they may have, and to encourage the management of the same to have a constructive interest in the county.

H. To confer with and inform the County Commissioners, the Economic Development Commission, and municipal governing bodies on all matters relative to the economic development in the county.

I. To periodically survey the overall status of the county and municipalities to determine if the county and municipalities furnish such services and facilities that are conducive to economic expansion.

J. To render annually, or as requested a summary of activities to the County Commissioners.

K. To meet with existing businesses to ensure retention and keep a pulse on their business activities.

L. Network and stay involved with state and other regional economic development professionals.

M. To serve as an ex officio member of the Tourism Development Advisory Board.

Analysis

Unless the Commission grants an exemption under §29-8 of the Public Ethics Law, an official serving on a County board or commission must not hold any employment relationship that would impair the impartiality and independence of judgment of the official. §29-4 C. and D. The Commission concludes that if the EDC member

undertakes the position of Government Affairs Director for the Realtors entities, his or her impartiality and independence of judgment as an EDC member would be impaired with regards to matters where either of the Realtors entities is a party or participant in the matter. In those matters, the requestor would have a potential conflict between his or her duty to the County and his or her duty to the Realtors entity. Thus, the requestor could not represent the EDC in any matter involving his or her outside employers – the Realtors entities. Neither could he or she work on any EDC matter where either Realtors entity is involved in the matter.

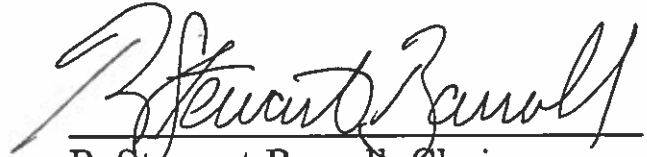
The requestor recognizes that he or she must recuse himself/herself as an EDC member in any matter where the Realtors entities have any communication or interaction with the EDC.

In reaching this decision the Commission has relied upon the facts as presented by the requestor.

FOR THE COMMISSION:

October 21, 2016

Date


R. Stewart Barroll, Chairman