

Town of Greenwich

Board of Ethics



Official Reports

for

Fiscal Years 1985 - 1989



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EDITOR

This contains reports of the Advisory Opinions of the Board of Ethics of the Town of Greenwich, Connecticut. The reports contain information drawn from the Board's official records. Consistent with the Greenwich Code of Ethics, information concerning the specific identity of the person requesting an advisory opinion has not been included. However, the relevant facts presented to the Board are summarized, the issues dealt with are identified and the conclusions of the Board are reported using the language from the original opinion or previous reports thereof to the extent possible. Please refer to the Introduction for important additional information concerning the use of these reports.

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July 1984 – June 1985

The Annual Report of the Board of Ethics for the 1985 Fiscal Year indicates that no Complaints or requests for Advisory Opinions were received and responded to in that Fiscal Year.

July 1985 – June 1986

Advisory Opinion No. 86-01

Date: 5/14/86

Topics: Conflict of Interest; Town Employees; RTM Members

Code Sections: Section 4, Section 2 (8)

Statement of Facts:

An RTM member requested an Advisory Opinion regarding participation in discussion and approval of collective bargaining agreements where the member or the member's spouse is a Town employee represented in a collective bargaining agreement.

Question Presented:

Where an RTM member or spouse is a paid employee of the Town, is it a violation of the Code to a) vote on a labor contract of the bargaining unit representing such employee, b) vote on any other labor contract of town employees, and c) take part in the discussions/debates of such contracts?

Discussion and Conclusion:

Section 4 of the Code of Ethics prohibits elected officials of the Town from voting on matters in which they have a substantial financial interest. Therefore, an RTM member who is, or whose spouse is, a paid employee of the Town of Greenwich may not vote on a labor contract of the bargaining unit representing such member or spouse. But the Board did not necessarily consider it a violation of the Code where an RTM member who is, or whose spouse is, represented in an agreement

participates in discussions concerning the agreement, so long as that interest is fully disclosed prior to or at the time of such participation.

However, the Board, indicating that it was not prepared to adopt the RTM member's suggestion of "recognizing a certain parallelism between contracts," found no violation of the Code of Ethics where an RTM member voted on a collective bargaining agreement in which neither the member, nor the spouse, was represented.

Statement No. 86-01

Date: 6/30/86

Topics: Complaints; Sufficiency: Disclosure of Financial Interests

Code Section: Section 4

The Annual Report of the Board of Ethics for the 1985–1986 Fiscal Year indicates that the Board received three Complaints during the year, but found them insufficient, either because they dealt with matters not covered by the Code of Ethics or did not have sufficient specificity in their allegations. These Complaints were dropped after meetings with the complainants. In addition, the report indicates that there were three requests for Advisory Opinions received during the year. One was deemed to be "too hypothetical." In another, the Board "had determined once again that any Town Officer may do business with the Town as long as they do not use their office to exert influence to secure that business and so long as they make timely disclosure of such business by filing the required annual disclosure statement."

July 1986 – June 1987

Advisory Opinion No. 87-01

Date: 4/24/87

Topics: Conflict of Interest; Indirect Interest; RTM Members; Town Employees; Police Department; Volunteer Fire Departments; Non-profit Organizations; Managers

Code Sections: Section 2 (a) (1), Section 4

Statement of Facts:

An individual who is a Town Officer as a member of the RTM and as a manager of a volunteer fire company has a daughter who is a member of the Town of Greenwich Police. The individual requested advice on what matters could be discussed and voted on in the RTM. It was not indicated how old the daughter was or whether the daughter lived with the Town Officer.

Questions Presented:

Does a Town Officer have a financial interest in a daughter's employment contract with the Town of Greenwich?

Can a member of the RTM engage in discussions or vote on matters relating to a department in which the member has a financial interest?

Discussion and Conclusion:

Section 2 (a) (1) of the Code of Ethics provides that a Town Officer's indirect interests include financial interests of a person who is part of the "immediate family" of the member. The Board considered a daughter or son, regardless of age,

marital status or residence, as part of the immediate family of a Town Officer. Since parents generally maintain an interest in the economic well-being of a daughter or son, they can be expected to have a substantial financial interest in matters that affect the well being of their children. This financial interest comes from a reasonable expectation of mutual support and assistance. For the same reason, parents and grandparents may be considered part of the immediate family of their children and grandchildren.

As a consequence of this substantial financial interest, the Board advised the member to refrain from voting on specific budget items affecting the police department or on collective bargaining agreements with Silver Shield Association, although, under certain circumstance, the individual may discuss such issues if the daughter's affiliation is disclosed prior to speaking. The Board did not believe that the individual had to refrain from voting on the general budget of the Town of Greenwich, but cautioned the individual that the concerns about the indirect interest derived through a family member also applied to any substantial direct financial interest that the individual might have as a result of being a manager of a volunteer fire company.

See Related: A-09-03

June 1987 – June 1988

The Annual Report of the Board of Ethics for the 1987–1988 Fiscal Year indicates that there were two complaints received, which had not been acted on during the fiscal year. Only one request for an Advisory Opinion was received during the Fiscal Year, but that it was found to be a matter outside the Board’s jurisdiction. There are no further records of the Board’s actions.

July 1988 – June 1989

Decision No. 89-01

Date: 10/25/88

Topics: Conflict of Interest; Fire Department; Town Employees; RTM Members

Code Section: Section 4

Statement of Facts:

Two members of the RTM brought a Complaint against another member of the RTM, who was the president of the firefighters' union. As a member of the RTM, the president of the firefighters' union had entered into discussions and voted against deleting funds from the Town budget that provided for the hiring of three additional firefighters.

Questions Presented:

Can the Town Officer who also serves as the president of the firefighters' union also vote and speak on issues relating to the firefighters' union?

Discussion and Conclusion:

Under Section 4, "No town officer having a substantial, financial interest in any transaction with the Town or in any action to be taken by the town shall use his office to exert his influence or to vote on such transaction or action." The Board tended to be of the view that, if an RTM member identifies the member's interest when speaking before the full RTM, there wouldn't necessarily be a reason to find that an attempt to exert influence had occurred merely because he or she informed the RTM of his or her view about the subject. The Board unanimously agreed,

however, that an RTM member cannot vote on any action to be taken by the RTM if the member has any direct or indirect financial interest in the matter.

The Board split, however, on the question of whether there was a financial interest in this case. Three members of the Board concluded that there was no financial interest because: (1) the member would not be eligible for promotion as a result of the vote, the new firefighters would not be required to join the union and therefore would not necessarily increase the amount of dues paid to the union that the member was the president of, and (ii) they believed that the member's motivation in voting was to further the interest of the Town as a whole. Two members dissented on the basis that the member had a substantial indirect interest as president of the firefighters' union because the union receives payroll deductions for all employees, regardless of whether they join the union and that interest is not an interest in common with the other citizens of the Town.

Statement No. 89-01

Date: 3/31/89

Topics: Conflict of Interest; Boards and Commissions; Non-Profit Entities; Transactions; Services

Code Section: Section 4

Statement of Facts:

Shortly before the Board of Health was scheduled to discuss and vote on proposals to provide advanced life-support medical services to the Town, a board member of the Greenwich Emergency Medical Service (GEMS) who was also a member of the Board of Health asked the chair of the Board of Ethics for advice concerning the "appropriate protocol" as to "my participation in and voting on the matter."

Questions Presented:

May a member of a Town board who also sits on the board of a non-profit entity vote on a proposal for services to the town where that non-profit entity is one of the proposed providers of such services?

Discussion and Conclusion:

Although the Board of Ethics did not issue an Advisory Opinion, the chair sent a letter to the member of the Board of Health. The letter noted that the Board member was serving on both the Board of Health and GEMS in a volunteer capacity and thus would appear to have no financial interest. However, due to the circumstances, the chair counseled the Board member to consider that there was a financial interest and drew attention to Section 4 of the Code, which reads:

“No town officer having a substantial, financial interest in any transaction with the town or in any action to be taken by the town shall use his office to exert his influence or to vote on such transaction or action.”

The chair reminded the Town Officer that the Town depended on the expertise of qualified volunteers and encouraged the Town Officer to provide that expertise to the Board of Health to the extent that it would facilitate its overall evaluation of the proposals submitted to the Board of Health. However, he indicated that to the extent that the Board member would have a real financial interest, he was confident that the Board “would advise you, as we have advised others many times in the past...to explain the conflict situation in which you find yourself and, as provided in the Code, not to vote on the matter.”

Decision No. 89-02

Date: 6/30/89

Topics: Exerting Influence: Town Employees; Planning and Zoning Commission

Code Section: Section 4

Statement of Facts:

A complaint was brought against a general partner at a law firm who also held office as an Assistant Town Attorney. As Assistant Town Attorney the individual submitted a binder designated as a petition for correction of zone classification to the Town Planner for the Planning and Zoning Commission, without notifying the Town Attorney. The Assistant Attorney then informally met with members of the Commission without a public hearing and threatened litigation if the correction was not approved without a hearing. The Assistant Attorney had an interest in a piece of property that would substantially increase in value upon obtaining relief requested in the submission.

Questions Presented:

Is a correction of a classification by the Planning and Zoning Commission a Town action?

Can a Town employee recommend Town action without disclosing their interest in affected property?

Discussion and Conclusions:

Under Section 4 of the Code, “No town officer having a substantial financial interest in any transaction with the town or in any action to be taken by the town shall use his office to exert his influence or to vote on such transaction or action.”

Correcting a classification, even if originally made in error, involves an action by the Town. The Assistant Town Attorney’s submission of the binder and subsequent meeting, without disclosing an interest in the affected property, was sufficient itself to constitute a violation of the Code, while threats of litigation to correct the zoning classification without a hearing is the essence of improper influence.

Decision No. 89-03

Date: 6/30/89

Topics: Conflict of Interest; Substantial Interest; Attorneys; Representation of Adjacent Landowners

Code Section: Section 4

Statement of Facts:

A complaint was made against a member of the Board of Ethics on the grounds that the member had not refrained from discussion or vote on the matter of Decision 89-02. A property owner adjacent to the property involved in that case was a client of the member of the Board as a private attorney. There was no showing that either the Town action with respect to the property at issue in the prior matter, or the Town action involved in deciding on the complaint, had an economic impact on the member of the Board. The member of the Board who was the subject of the complaint refrained from participation in the discussion and did not vote on the complaint.

Questions Presented:

Does a Town Officer have a substantial financial interest in a Town action that affects property because the Town Officer represents an adjacent property owner as an attorney in other matters?

Discussion and Conclusion:

Section 4 of the Code of Ethics prohibits appointed officials of the Town from using their position as a Town Officer to exert influence or vote on matters in which they have a substantial financial interest. No financial interest was shown, nor was one implied by the mere fact that the Town Officer had an attorney-client relationship with an adjacent landowner. The Board determined that there was no violation of the Code by its member.

See Related: A-98-02, A-05-01