



## **City of Rockville Ethics Commission**

### **ADVISORY OPINION 15-01**

**June 11, 2015**

#### **Request**

A request for an advisory opinion was submitted to the Ethics Commission from an applicant to one of the City's Designated Boards and Commissions. The requestor is applying to become a member of the City's Planning Commission and owns a company that brokers the sale of real estate, both residential and commercial, within the City of Rockville.

The requestor posed the following issues to the Ethics Commission for consideration:

1. The Planning Commission intends to revise the City's Comprehensive Master Plan and complete the Rockville Pike Plan. Because these two activities impact land use throughout the City, would clients that I may have purchasing or selling real estate in the City be presumed to have the financial interest outlined in Sec. 16-23(b)(2) and/or be engaged in an activity as specified in Sec. 16-23(b)(3)? And would their "employment" of me constitute a "Gift"? Would my employment by them be viewed as a conflict of interest under Sec. 16-27(a)?
2. Should I broker a purchase of real estate subject to the Final Rockville Pike Plan, for example, either during or after my possible term, would this be considered a conflict of interest under Sec. 16-27(c)?
3. Should a former applicant for a decision or recommendation by the Planning Commission wish to engage me as their broker in a transaction that was not related to their application, would this engagement be prohibited by the Ethics Ordinance?
4. Would there be any other limitation under the Ethics Ordinance that would prevent or limit my ability to conduct my business, or limit my participation on the Planning Commission more than typically expected?

## **Opinion**

The first issue considered by the Commission in considering this request was whether the requestor had standing to make the request under § 16-3(i) of the City's Ethics Ordinance, which states, in pertinent part, that "[a]ny official or other person subject to the provisions of this chapter may request an advisory opinion from the Commission concerning the application of this chapter." (Emphasis added.) The Commission considered whether the requestor, as an applicant for a Designated Board or Commission, was a "person subject to the provisions of this chapter." The Commission found that, while the requestor was not currently technically "subject to the provisions of this chapter" since the requestor was not a member of a Designated Board or Commission, the requestor had standing to make the request for an advisory opinion since 1) the requestor had already submitted an application for the Designated Board or Commission including the filing of a financial disclosure statement; and 2) the requestor would be "subject to the provisions of this chapter" immediately upon appointment by the Mayor and Council.

Next, the Commission considered the questions posed by the requestor. Upon consideration, the Commission concluded that the request did not contain enough facts upon which the Commission could render a meaningful opinion. The determination of ethics issues are almost always dependent on the specific factual situation presented. As such, the Commission needs specific facts in order to render an opinion on a given situation. Given the lack of a specific set of facts in the request presented, the Commission is unable to render an opinion on any of the questions posed by the requestor.