

SUFFOLK COUNTY



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ANTHONY PARLATORE, ESQ.
REV. DR. BERESFORD ADAMS
EXECUTIVE DIRECTOR
SAMANTHA L. SEGAL, ESQ.

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BOARD OF ETHICS

WWW.SUFFOLKCOUNTYNY.GOV/AGENCIES/ETHICS

March 17, 2022



Via email to: [REDACTED]

Re: Advisory Opinion Request No. AO-2021-24

Dear [REDACTED]

Please be advised that on March 16, 2022 the Suffolk County Board of Ethics convened at a regularly scheduled Board Meeting and by unanimous vote approved your request as no conflict based upon the facts presented under Suffolk County Code §77-4 (A).

Please find enclosed your original opinion for your file.

Regards,


Samantha L. Segal Esq.
Attorney at Law

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SLS/ml

Enclosure

Cc: Board of Directors, Suffolk County Board of Ethics

STATE OF NEW YORK: COUNTY OF SUFFOLK
SUFFOLK COUNTY BOARD OF ETHICS

-----X
In the Matter of the Inquiry of

Advisory Opinion 2021-24

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Suffolk County Planning Commissioner

-----X
STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS

Advisory Opinion 2021-24
Vote 1/5/2022
Issued 3/16/2022

NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL

Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules. Unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.

Summary: The Requestor, a member of the Suffolk County Planning Commission, has submitted an opinion request asking 1) does the scope of a potential consultancy with the Town of Brookhaven create an impermissible conflict and 2) is the Requestor required to recuse if a conflict exists?

3/16/2022: Board of Ethics Public Meeting

Address
Suffolk County Board of Ethics Office
300 County Center Drive Office N204
Riverhead, NY 11901

Persons Present: Chairperson Eric A. Kopp
Vice Chairperson David Bekofsky
Board Member Reverend Dr. Beresford Adams
Board Member Anthony Parlatore, Esq.
Samantha Lee Segal, Esq., Suffolk County Board of Ethics Executive Director
Mary Lynn Larson, Suffolk County Board of Ethics Secretary
Ingerman Smith LLP. By Michael D. Raniere, Esq., Outside Independent Counsel

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, SCBE Advisory Opinion 2020-1¹; Suffolk County Code Chapter 77, Chapter 77-3, 77-7, and the Suffolk County Board of Ethics Rules.

¹See SCBE Advisory Opinion 2020-1 issued 2/19/2020 concluding that a Suffolk County Elected Official can be a compensated consultant as the geographic region for consulting would include the City of New York, other Counties and specifically exclude bus companies in Suffolk and Nassau County. The consulting activity would include reading reports and providing feedback. In response to a Board directed fact finding inquiry, the Requestor has advised that his on call 24/7 status of availability for law enforcement emergencies would not be compromised by this proposed outside income and advises that his current regular outside activities require him to remain on call "24/7". Additionally, the Requestor advises that the outside entity, Transportation Safety

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Exhibits:

SCBE	“1”	SCBE FORM Opinion Request with Attachments
	“2”	SCBE Standing Letter
REQUESTOR	“A”	Initial Contract Terms
	“B”	Full Contract Requested by Board of Directors (Received 3/4/2022)

Procedural History: This request was received on 11/18/2021, the Board of Ethics voted and approved standing on 12/1/2021, fact finding concluded on 12/10/2021 and the Board determined by majority vote that there is not an impermissible conflict of interest under the facts presented, pending submission of the full underlying proposed contract, received on 3/4/2022. Upon review at the 3/16/2022 Board meeting, the Board approved issuance.

Opinion and Analysis: The Requestor, a member of the Suffolk County Planning Commission, has submitted an opinion request asking if he is required to recuse on an upcoming Planning Commissioner votes if he is accepts an independent consultant position with the town of Brookhaven.

The Requestor advises that this position would be consulting on future trends and long range issues that will be facing the Town of Brookhaven (See Respondent’s Exhibit “A”). In fact finding interviews, the Requestor further detailed and set forth that jurisdictional topics that would be before the Planning Commission would be precluded from this independent consultant agreement (See Respondent’s Exhibit “B” – Consultant Contract Scope of Duties for Long Range Planning for Town of Brookhaven).

In considering this inquiry, the Board employed the following three-step analysis to determine whether a prohibited conflict of interest would exist:

- a) Does the Requestor have standing to obtain an Advisory Opinion from the Suffolk County Board of Ethics?;
- b) Is the Requestor seeking advice on proposed future conduct?;
- c) Whether recusal is required?

As applied to the above, the Board determined that standing exists for this Advisory Opinion request due to the Requestor’s position as a public official Board member. (*Suffolk County Administrative Code §A30-1, §A30-3, Suffolk County Code Chapter 77, §77-1*).

Analyzed Laws and Rules:

§ 77-3. PROHIBITED CONDUCT.

B. No public servant shall engage in any business, transaction or private employment, or have any financial or private interest which is in conflict with the proper discharge of his or her official duties.

C. No public servant shall use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit to himself or herself, a person or firm associated with the public servant, a customer or client of the public servant or any person from whom the public servant has received a gift or any goods or services for less than fair market value, during the preceding 12 months.

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§ 77-7. **RECUSAL AND DISCLOSURE.**

A. A public servant shall promptly recuse himself or herself from acting on any matter when acting on the matter, or failing to act on the matter, would constitute prohibited conduct under the Code of Ethics or would financially benefit the public servant, a person or firm associated with the public servant, a customer or client or any person from whom the public servant has received a gift, or any goods or services for less than market value in the preceding 12 months.

Upon review of the full record, including Board directed fact finding and Requestor interviews completed by Executive Director Samantha Lee Segal, Esquire, the Board concludes that the Contract, as represented by the Requestor, precludes matters of the County Planning Commission. Accordingly, the Board issued this no-conflict opinion.

The Board of Ethics determines that the Requestor's prospective consultant agreement precludes matters that the Requestor may act on in his official duties as a Planning Commissioner. Therefore, recusals, are not required absent a conflict.

CONCLUSION

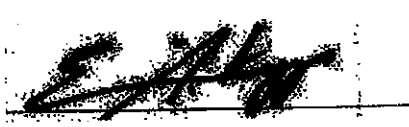
Accordingly, the Board finds that pursuant to the Suffolk County Code, the requested future conduct, as described herein, does not create an impermissible conflict but would require recusal under the Code of Ethics and Planning Commission rules if such matters were included in the scope of contract.

Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered. (Excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.

The forgoing is the opinion of the Board.

Dated: Riverhead, New York
Board Vote March 16, 2022
Mailed March 17, 2022

Vote 4-0-0



Eric A. Kopp – Chair (signed electronically)
On Behalf of Suffolk County Board of Ethics

SLS/