

STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion No. 2022-5
June 1, 2022

SUFFOLK COUNTY

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Advisory Opinion No. 2022-5

Subject Matter: Membership on not-for-profit board

Relevant Laws: Laws of Suffolk County, Chapter 77, Article I, §§ 77-3 B and C, 77-5 D and 77-7 A and B

Summary: Uncompensated service as member of board of not-for-profit with no business dealings with Suffolk County would not violate Suffolk County Code of Ethics

The Suffolk County Board of Ethics (the "Board") has received a request, dated April 18, 2022, from [REDACTED] the [REDACTED] of the Suffolk County [REDACTED]. In his request, [REDACTED] asks for an opinion from the Board as to whether pursuant to Chapter 77 of the Laws of Suffolk County, also known as the Suffolk County Code of Ethics, he may retain his position as an uncompensated member of the board of [REDACTED]

As set forth in detail below, at its May 18, 2022 meeting the Board determined that, based on the facts presented, [REDACTED]'s service as a board member of [REDACTED] would not be prohibited by the Suffolk County Code of Ethics, provided that [REDACTED] recuse himself, if necessary, pursuant to the provisions set forth in Suffolk County Code Section 77-7.

Background

[REDACTED] advises that in January 2022 he was appointed by the Suffolk County Legislature to the position of [REDACTED]. In this position, [REDACTED] is, among other things, responsible for maintaining the records of [REDACTED]. See Suffolk County Code § A2-11. [REDACTED] further advises that he also serves as an uncompensated member of the [REDACTED]'s board. According to its website, [REDACTED] was established in 1971 and is actively involved in developing affordable housing for the elderly, including sponsoring senior housing projects in

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the Town of Huntington. Based on a review by Board staff, [REDACTED] is a registered New York not-for-profit organization that does not currently engage in business dealings with Suffolk County.

Relevant Law

The Suffolk County Code of Ethics provides, in relevant part, that

[n]o public servant shall have an ownership interest in a firm which such public servant knows is engaged in business dealings with the department or agency served by such public servant. **See § 77-2 A.**

[n]o County employee shall have an ownership interest in a firm which such employee knows is engaged in business dealings with the County. **See § 77-2 B.**

* * *

[n]o 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. **See § 77-3 B.**

[n]o 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. **See § 77-3 C.**

* * *

[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.

Whenever a public servant is required to recuse himself or herself under the Code of Ethics, he or she shall:

- (1) Promptly inform his or her immediate supervisor, if any;
- (2) Promptly file with the Board a signed statement disclosing the nature and extent of the conflict; and
- (3) Immediately refrain from participating further in the particular matter.

See §§77-7 A and B.

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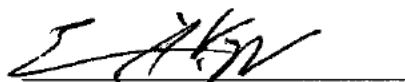
In addition to these provisions, Section 77-5 of the Code of Ethics provides that nothing in the Code shall prohibit “[a] public servant . . . from acting as an attorney, agent, broker, officer, director or consultant for any not-for-profit corporation or other entity which operates on a not-for-profit basis, which has business dealings with the County, provided that such public servant takes no direct or indirect part in such business dealings and that the public servant receives no salary or other compensation for such activities.” See § 77-5 D.

Discussion and Determination

Based on the facts presented, the Board finds that [REDACTED]’s uncompensated service as a member of the [REDACTED]’s board would not violate the Suffolk County Code of Ethics. The Board, however, directs that if [REDACTED] engages in business dealings with the County in the future, [REDACTED] must take no direct or indirect part in such business dealings and must make appropriate recusals under Suffolk County Code Section 77-7. See also § 77-5 D; Board Advisory Opinion 2018-14 (finding that even where a not-for-profit has business dealings with the County, a public servant’s uncompensated service on the not-for-profit’s board is permissible where the public servant takes no “direct or indirect part in such business dealings and that the public servant receives no salary or other compensation for such activities.”).

The forgoing is the opinion of the Board.*

Dated: Riverhead, New York
June 1, 2022



Chairperson, Eric A. Kopp
Board of Ethics

*Pursuant to Suffolk County Board of Ethics Resolution 004/2013, a requester shall have **fifteen (15) business days** from the time an 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. Unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Applications requesting modification, clarification, or withdrawal must be made in accordance with Board rules. Nothing shall prohibit the Board, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.