

Ethics in Land Use: Guiding Principles for Attorneys and Land Use Board Members

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RELATIONSHIPS AND ETHICS IN THE LAND USE GAME

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Introduction

Ethical considerations in the land use decision making process can be organized into a number of categories, including, first and foremost, the broad subject of conflicts of interest.¹ Players in the land use game can find themselves in real or perceived conflicts situations based on personal financial interests resulting from investments, including businesses and real estate holdings (such as the location of their property vis-à-vis the location of the subject property before the Board), employment for themselves or members of their immediate family, and memberships in nonprofit organizations that may be either passive or active (e.g., simply dues paying member or officer or other volunteer engagement). Other relationships may be problematic, such as private relationships that typically have a shield of confidentiality, such as the lawyer-client relationship or the doctor-patient relationship. This could also extend to members of the clergy who appear before boards where their followers serve as members. This article discusses ethics issues that arise because of various personal relationships between members of land use boards, applicants and other stakeholders. Of course, disclosure of relationships that could be viewed as potential conflicts is always advisable, and the discussion of whether or not such disclosure necessitates a recusal may at times warrant discussion with board counsel.

Membership in Churches

Many people who serve on local boards belong to faith-based organizations and attend houses of worship in the community. Two recent New Jersey cases demonstrate how ethics allegations might arise based on this relationship. In both cases the court remanded the matters for further fact-finding. In the first case the NJ Supreme Court remanded the claim of conflict of interest in a zoning amendment vote by two municipal officials who held leadership positions in the applicant church. Specifically, the Plaintiff challenged the validity of an ordinance allowing the construction of an assisted-living facility next to a church due to the alleged conflicts of interest of two members of the Township Council.² The Plaintiff alleged that one member should have been disqualified for a direct personal interest in the outcome based on his comment that he might admit his mother to the proposed assisted-living facility one day.³ Additionally, Plaintiff argued that this

same member and another member should have been disqualified because they were also members of the church and thus had indirect personal interests in the outcome.⁴ As for the one member's comment that he might seek to admit his mother in the proposed assisted-living facility, the Court held that this alone did not create a conflict of interest that would disqualify him from voting on the ordinance because there was no evidence that the mother depended on the construction of the facility for her care, and the comment alone did not distinguish the member from any other person in the community who may or may not send their family members to the facility one day.⁵ The court remanded this issue so that the trial court could develop the record as to whether the comment revealed an actual personal interest.⁶ As for the other ground, the court noted that, ". . . public officials who currently serve in substantive leadership positions in the organization, or who will imminently assume such positions, are disqualified from voting on the application."⁷ The court clarified that the church's interest in this ordinance is not automatically imputed to all its members but only to those members who occupied a position of substantive leadership.⁸ The court remanded on this issue so that the trial court could determine whether the

two members held substantive leadership positions in the church.⁹

In a second case from New Jersey, the Plaintiff sued to enjoin the Township and the Planning Board from considering a proposal to exchange municipal property with a church.¹⁰ She argued that there was a conflict of interest because a majority of Township and Board members were also members of the church.¹¹ Specifically, she alleged that:

the Council and Board were disqualified from acting on the proposed land exchange due to conflicts of interest; (2) the Township was required to exercise its power of reversion over the Church's property; (3) the Township breached its fiduciary duty to the residents in pursuing the property exchange in light of the conflict of interest; (4) the Township improperly spent funds in furtherance of the proposed exchange, which Township officials had already decided should occur; and (5) the transfer of land to the Church violated the New Jersey Constitution.¹²

The Court held that it could not determine whether there was a conflict of interest for the first, second, third, and fifth counts until the Township and Board took a final vote to approve the municipal property exchange with the church.¹³ At the time of the decision, the Township and Board were merely investigating the value of the proposed exchange.¹⁴ Therefore, the matter was not yet ripe for adjudication, and Plaintiff had not yet exhausted her administrative remedies "to make her opinion known of the land transfer."¹⁵ However, Plaintiff alleged in her fourth count in her complaint that the Township passed three final resolutions in 2013 that were voted on by Township Council members who had conflicts of interest.¹⁶ For this Court, the court noted that the church's interest in the outcome of the proceeding could be imputed to a Township Council member who also has a role in the church if that Council member "holds, or who will imminently hold, a position of substantive leadership in an organization reasonably is understood to share its interest in the outcome of a zoning dispute."¹⁷ In order for a conflict to disqualify a member from voting on a resolution, the conflict must be "distinct from that shared by members of the general public."¹⁸ The court held that the record did not provide enough information regarding the substantive roles of the Township Council members in the church.¹⁹ Therefore, it was impossible to determine whether

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any of the members had a disqualifying conflict of interest, so the issue was remanded to enable a record to be developed.

Membership in Nonprofit Organizations

It is also common for members of local boards to be active or passive members of nonprofit organizations in the community. These might be civic groups, clubs and organizations, or educational and advocacy entities. Questions arise based upon where in the spectrum of activity in the organization the person is—for example, there may be a difference between someone who is simply a dues paying member, and someone who holds an office within the organization.

The First Circuit Court of Appeals found no unethical conflict of interest on the part of board members who maintained membership in a conservation association that was opposed to the proposed project. Here the applicants acquired a leasehold interest in land on which they sought to build a wireless communications tower.²⁰ After the Planning Board denied the application, they brought a substantive due process claim alleging that certain Planning Board members, through their membership in the Belgrade Region Conservation Association (the “BRCA”), had a financial interest in conservation easements the BRCA held. The court found these vague allegations of conflicts of interest and financially motivated conspiracy were insufficient to show that the Planning Board acted in the kind of conscience-shocking fashion required for substantive due process challenges. Accordingly, the District Court’s dismissal of the case was affirmed.

In another case arising in Connecticut, a member of the Planning and Zoning Commission was a former spokesperson for the local athletic foundation who had an application before the Commission to make changes to sports fields at a local high school.²¹ Before the Commission made its decision, Plaintiff objected to the participation of a Commission member because he was a prior spokesperson for the Darien Junior Football League (DJFL) and a founding member of DAF.²² Despite this objection, the Commission ultimately granted the application with the participation of the Commission member in question.²³ Plaintiff appealed, arguing that the

application’s approval was invalid due to the member’s conflict of interest.²⁴ The Court held that the member’s previous affiliations with the DAF and DJFL did not disqualify him because the record showed that his “open mindedness was not imperiled and that he considered whether the application conformed with the regulations in a fair and impartial manner.”²⁵ Additionally, there was no evidence that the Commission member had a financial or pecuniary interest in the outcome of the application.²⁶ The Court reasoned that not every “conceivable interest” is sufficient to disqualify a zoning official.²⁷ If it were, many individuals, especially those who are active in their communities, would not be able to participate on zoning commissions.²⁸ Rather, courts must determine whether an interest disqualifies an official on a case-by-case basis, requiring a review of whether such interests indicate “the likelihood of corruption or favoritism.”²⁹

A recent lower court case in New York voided the enactment of a local law, agreeing that a town supervisor, “had an admitted conflict of interest, stated on the record that she was recusing herself from participating in the matter, was reminded and was well-aware of her conflict of interest and, yet, continued to participate in the public hearing for the Local Law.”³⁰ The supervisor was a member of the homeowner association that was suing in another, but related, action, not only Plaintiff’s, but also the Town’s Zoning Board. The Court opined that the supervisor “arguably has a personal interest in the outcome of this litigation, not just as a member of the general public, but also as a plaintiff in the related litigation—a fact that she publicly acknowledged.”³¹ The Court was displeased with the fact that the supervisor “presided over the meetings and remained present during every discussion about this issue, contrary to her stated recusal. . .” noting that such participation has the potential to influence other board members who will exercise a vote with respect to the matter in question.³² The Court said that while the supervisor:

announced she was recusing herself from any voting regarding the matter, it was her presence at the meeting, as well as her engagement in discussions with the public about the issue, that makes her presence problematic. She admitted to having many conversations with community members about this

issue and their concerns. She was vague about with whom she spoke, and it is unclear if she relayed the substance of those conversations to her fellow Board members while in executive session or outside of the public meeting. There is an appearance, or the threat of an appearance, that she proverbially “drove the bus” when it came to enacting the subject Local Law.³³

The Court advised that, in this situation, the supervisor should have deferred to the deputy supervisor or to another Town Board member to run the meetings as her presence, “in front of her neighbors and the public, where it was well known that her homeowner association’s lawsuit was pending, could have influenced her fellow Town Board members.”³⁴ The Court concluded that, “Simply put, her continued presence gave her neighbors the impression that they had an ‘in’ with the Town Board, and Plaintiffs with the belief that they ‘didn’t stand a chance.’ ”³⁵

Family Members and Friends

There are many reported cases that discuss potential conflicts of interest based on familial relationships. These arise in the context of family members who may be employed by the applicant (ranging from small businesses and organizations where everyone knows their employees, to large operations where the applicant appearing before the board may not have even known that a relationship existed) and family members who are in fact the applicant. In addition, the public may perceive conflicts when friends of board members appear before the board. This is also problematic from an ethics perspective since board members in small communities may personally know many applicants who appear before them, and exactly how close a friendship needs to be to constitute a conflict is an open question. For example, if an applicant appears as a connection on a board member’s LinkedIn page or as one of hundreds of friends on Facebook, that alone should not necessarily be a disqualifying conflict. If, however, the board member was in the applicant’s wedding party, that may signal a much closer relationship warranting further examination. Below are some examples of recent decisions and opinions involving family and friends. Over the years there have also been a fair number of reported decisions involving spouses who appear before

boards in professional or member of the public roles, spouses who work for the municipality and appointed the board member and spouses who may serve on different boards within the same jurisdiction and may be in a position to cast votes regarding the spouse, or review decisions of the board their spouse sits on.

The Michigan Appeals Court suggested in dictum that there would be a conflict of interest where a board member’s spouse wrote a letter and appeared at a hearing in opposition to a request. In this case the applicant purchased a building used for industrial purposes which was non-conforming since 1994. He requested that the Zoning Board recognize the prior nonconforming use and was denied. A member of the Board owned the adjacent property and had tried to purchase the subject property but was outbid, and then offered to purchase the property at the hearing. The Board member’s wife both wrote a letter and appeared at the hearing as a member of the public in opposition to the application, and the Board member did not abstain from voting on the petition, but instead supported another member’s motion to deny the petition. He was absent at the next meeting of the Zoning Board of Appeals when the minutes from the appeal hearing were approved. The applicant argued that this created a clear conflict of interest and that he was denied a fair, impartial hearing. The Board member was asked by the applicant’s counsel to disqualify himself from voting on this matter in light of his conflict of interest, but he did not. The Michigan Court of Appeals decided the case on the merits in favor of the applicant and so did not issue a holding regarding the alleged conflict of interest. However, the Court stated that there did in fact seem to be a conflict of interest because of the reasons stated above.³⁷

A New York trial court found no conflict of interest where a board member was related to a former attorney for the law firm representing the applicant.³⁸ In this case a Greek Orthodox Church and religious education center sought special exceptions and variances to build a 25,806 square foot two-story cultural center directly adjacent to the church. The Zoning Board of Appeals granted the permit with conditions attached following a full-day public hearing that lasted more than 12 hours, with

16 witnesses appearing in support of the application and 24 witnesses opposed. Three homeowners who lived across the street challenged the granting of the permit on a number of grounds, including irregularity in the conducting of the administrative hearing and an alleged conflict of interest of one of the members of the Board. Although the petitioners claimed that they were not given the ability to cross-examine the Church's witnesses, the Court said that this did not violate their due process rights as they clearly had notice and more than ample opportunity to be heard. The alleged conflict of interest was based on the fact that one member of the Board was the sister-in-law of an attorney who used to work for the law firm representing the Church. Further, the law firm's current managing partner was a campaign manager for the Board member's estranged husband. The Court noted that the petitioners failed to point to a specific violation of N.Y. General Municipal Law Article 18 (the state statute governing municipal ethics), and that they did not identify any pecuniary or material interest in the application by the Board member. Further, the Court noted that since the vote was unanimous, the Board member did not cast the deciding vote.³⁹

The Rhode Island Ethics Commission opined that it was permissible for the spouse of a deputy zoning official to petition the town council for an amendment to the zoning use regulations to allow the deputy zoning official to open and operate an art studio and gallery on her spouse's property.⁴⁰ Under Rhode Island statute public officials are prohibited, among other things, from participating in any matter in which they have an interest and that is in substantial conflict with the proper discharge of their public duties.⁴¹ Further, public officials may not represent themselves or any other person before an agency of which they are a member or by which they are employed.⁴² They are also prohibited from authorizing another person to appear on their behalf in front of an agency of which they are a member or by which they are employed.⁴³ The Commission concluded that, because it was the spouse and not the deputy zoning official who wished to appear before the council; the zoning official was neither a member of the town council nor employed by it; and that the council did not appoint the zoning official, there would be no prohibition.⁴⁴

The New Hampshire Supreme Court dismissed a conflicts claim alleging that the chair of the Zoning Board of Adjustment had a longtime relationship with applicant since the claim was untimely,⁴⁵ serving as another important reminder that where actual or perceived conflict exists, the complaint must be timely raised in the course of the administrative or quasi-judicial review process. In this case the City Council appealed the lower court's dismissal of their claims. The Plaintiffs updated a local zoning ordinance which eliminated manufactured housing parks. The Zoning Board of Adjustment heard a case in which a company, "Toys," requested a variance to expand their manufactured housing park. This variance was requested after the Plaintiff's instituted the change to the zoning ordinance. The Defendants granted the variance request seemingly without the addition of Toys meeting its burden of proving unnecessary hardship. The Plaintiffs claimed that the Board Chairman was a longtime friend and associate of Toys and that there may have been discussions about this transaction outside of an official meeting. The Court held that the Plaintiff did not raise the issue of a potential conflict in a timely manner, noting that, "The conflict of interest or potential bias issues must be raised at the earliest possible time in order to allow the local board time to address them."⁴⁶

In an unreported case, a New Jersey appeals court agreed that no conflict of interest existed between the president of the township council and his spouse who worked in a township department.⁴⁷ The Committee to Stop Mahwah Mall was an informal group of residents that challenged the validity of an ordinance that permitted retail and commercial development on a 140-acre tract of land. Plaintiffs alleged, among other things, that since the ordinance included a provision for the construction of a six-acre recreational field within the 140-acre tract, and the Township Council president's wife was the director of the town's recreational department, a conflict of interest existed.⁴⁸ The trial court held that the President/Mayor did not have a conflict of interest based on his wife's position. On appeal, the court affirmed, finding that the Plaintiffs did not meet their burden of proving that the President's vote benefited his wife in a non-financial way.⁴⁹

Physician-Patient Relationships

The New Jersey Supreme Court recently decided a novel relationship issue involving the physician-patient relationship, concluding that a “meaningful relationship” between a zoning board member and his or her immediate family member could support a finding of a disqualifying conflict of interest.⁵⁰ Because of the potential life-saving diagnosis that physicians may make for their patients, the Court opined that, “A person may have difficulty judging objectively or impartially a matter concerning someone to whom he would naturally feel indebted.”⁵¹ The court continued, “. . . we cannot expect Zoning Board members to have a disinterested view of a doctor with whom they, or immediate members of their family, have had a meaningful patient-physician relationship.”⁵² The Court went into a lengthy discussion of the relationship between individuals and their doctors. They said:

Physicians are responsible for caring for and maintaining the physical and mental health of their patients so that they can enjoy productive and happy lives. In that light, the deep bonds that develop between patients and their physicians are understandable.

Physicians every day diagnose and treat patients for the mild and malignant maladies that afflict the human body and mind. It would be natural for a patient to owe a debt of gratitude to a doctor who has removed a cancerous lesion from the skin, repaired a shoulder injury, replaced a knee, set a broken bone, performed heart or kidney surgery, delivered a child, prescribed life-enhancing or -saving medications, provided psychiatric therapy, or every year treated symptoms for the common cold or flu. It is not unusual for a physician to treat a family over the course of decades.

A person may have difficulty judging objectively or impartially a matter concerning someone to whom he would naturally feel indebted. By any measure, under the conflict-of-interest codes previously discussed, we cannot expect Zoning Board members to have a disinterested view of a doctor with whom they, or immediate members of their family, have had a meaningful patient-physician relationship.

We cannot here fully limn the contours of what would constitute a meaningful patient-physician relationship because that may depend on the length of the relationship, the nature of the services rendered, and many other factors. The determination will be fact specific in each case. A few examples, however, should

provide some guidance. On one end of the relationship spectrum may be the physician who, once five years ago, merely inoculated the patient with a flu shot, and on the other end may be the physician who, ten years ago, performed a life-saving heart transplant. A primary-care physician who examines a patient annually and tends to the patient’s health-care issues as they arise or the surgeon who performs a life-altering or -enhancing procedure will fall within the sphere of a meaningful relationship that should prompt disqualification.⁵³

The Court next focused on just how the disqualification should occur. After all, there is also a special confidentiality that attaches to the physician-patient relationship. The mere existence of the relationship, especially if the physician is a specialist, can create an uncomfortable situation where the board member-patient may not want the existence of the relationship known. The Court acknowledged that, “The potential disclosure of highly intimate and personal health-care information raises legitimate privacy concerns and therefore must be addressed with great sensitivity.”⁵⁴ However, the Court also noted that this must be weighed against the Board member’s duty to the public interest, and concluded that, “. . . the nature of any disclosure relating to a patient-physician relationship must be weighed against the official’s reasonable expectation of privacy.”⁵⁵ Therefore, should the Court determine a meaningful patient-physician relationship exists, “. . . the nature of the disclosure will depend on, among other factors, the degree of need for access to the information, the damage excessive disclosure would cause to a patient’s right to privacy, the adequacy of safeguards to prevent excessive disclosure, and the personal dignity rights of the official.”⁵⁶ The Court continued:

Every reasonable precaution must be taken to protect against the unnecessary release of a patient’s health-care information. Certain sensible approaches should be kept in mind. A zoning board member who recognizes the applicant as one with whom he or she has a meaningful patient-physician relationship can simply disqualify himself or herself from the case, with nothing more being said. One would expect, in most cases, a zoning board member to know whether that type of meaningful relationship exists, after some explanation by the zoning board attorney. If in doubt, the member can consult with the board attorney and speak in hypothetical terms to gain an understanding whether recusal is appropriate. Erring on the side of disqualification when the board member has

had a patient-physician relationship with the applicant is the most prudent course.⁵⁷

While voluntary disqualification may be the prudent course, it is certainly possible that Board members might conclude that disqualification is not necessary since they might not believe that a meaningful relationship exists. This presents a risk, however, that an objector who has knowledge of the existence of the physician-patient relationship with the Board member or a member of their family, might disclose it in a challenge to the member's participation in review of the particular matter at hand. The Court opined that, "In such cases, the board member should not be required to disclose anything more than that he or she, or a family member, was at one time a patient of the applicant or objector or someone with a property interest at stake in the outcome of the proceedings."⁵⁸ Should the objector contest the participation of the board member further, the Court opined that disclosures should be heard in camera and ex parte before a Law Division judge, and that "Only if the judge concludes that disclosure is necessary should some form of disclosure be mandated, and then only to the extent reasonably necessary, minimizing the invasion of privacy into such sensitive matters. A board member should not be required to reveal the precise nature of a medical condition or other intimate details of treatment. Any potential disclosure must be balanced against the sanctity of the privacy of the patient's health information."⁵⁹

Conclusion

As always, the best course of action is to avoid even the appearance of impropriety. Despite the fact that there are only about two dozen ethics cases and opinions reported annually, and that the courts are often forced to find that the alleged unethical conduct rises to a legal violation to sustain the alleged conflict, the costs, even for those who prevail, can be significant economically and reputationally. Taken with the daily availability of news clips reporting on alleged unethical conduct in the land use decision-making process across the country, combined with the willingness of the public to take to social media to express their displeasure over the conduct and behavior of the players in the land use game, land use ethics has never been under a

stronger microscope. Those who volunteer or who earn a living in the land use game should carefully consider the consequences of their actions and inactions.

ENDNOTES:

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¹Other topics such as bias and prejudice, campaign promises and contributions, bribery and corruption, ex parte communications and dual office-holding to name just some examples where ethical issues arise in the land use game, are beyond the scope of this article. But see, Salkin, *American Law of Zoning*, 5th ed., Chapter 38.

²*Grabowsky v. Township of Montclair*, 221 N.J. 536, 115 A.3d 815 at 817 (2015).

³Id.

⁴Id.

⁵Id at 827.

⁶Id.

⁷Id. at 818.

⁸Id. at 829.

⁹Id. at 830.

¹⁰*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *1 (N.J. Super. Ct. App. Div. 2015).

¹¹*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *1 (N.J. Super. Ct. App. Div. 2015).

¹²*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *2 (N.J. Super. Ct. App. Div. 2015).

¹³*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *4 (N.J. Super. Ct. App. Div. 2015).

¹⁴*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *4 (N.J. Super. Ct. App. Div. 2015).

¹⁵*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *4 (N.J. Super. Ct. App. Div. 2015).

¹⁶*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *4 (N.J. Super. Ct. App. Div. 2015).

¹⁷*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *6 (N.J. Super. Ct. App. Div. 2015).

¹⁸*Matula v. Township of Berkeley Heights*, 2015 WL 5009859, at *6 (N.J. Super. Ct. App. Div. 2015).

¹⁹*Matula v. Township of Berkeley Heights*, 2015

WL 5009859, at *6 (N.J. Super. Ct. App. Div. 2015).

²⁰*Global Tower Assets, LLC v. Town of Rome*, 810 F.3d 77 (1st Cir. 2016).

²¹*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *1 (Conn. Super. Ct. 2015).

²²*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *1 (Conn. Super. Ct. 2015).

²³*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *2 (Conn. Super. Ct. 2015).

²⁴*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *3 (Conn. Super. Ct. 2015).

²⁵*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *14 (Conn. Super. Ct. 2015).

²⁶*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *13 (Conn. Super. Ct. 2015).

²⁷*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *12 (Conn. Super. Ct. 2015).

²⁸*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *12 (Conn. Super. Ct. 2015).

²⁹*Michalski v. Planning and Zoning Com'n of Town of Darien*, 2015 WL 5976190, at *12 (Conn. Super. Ct. 2015).

³⁰*Titan Concrete, Inc. v. Town of Kent*, 94 N.Y.S.3d 817 (Sup 2019).

³¹Id.

³²Id.

³³Id.

³⁴Id.

³⁵Id.

Trail Side LLC v. Village of Romeo, 2017 WL 2882554 (Mich. Ct. App. 2017), appeal denied, 501 Mich. 982, 907 N.W.2d 571 (2018).

³⁷*Trail Side LLC v. Village of Romeo*, 2017 WL

2882554 (Mich. Ct. App. 2017), appeal denied, 501 Mich. 982, 907 N.W.2d 571 (2018).

³⁸*Healy v. Town of Hempstead Board of Appeals*, 61 Misc. 3d 408, 83 N.Y.S.3d 836 (Sup 2018).

³⁹Id.

⁴⁰RI Ethics Commission, Advisory Opinion No. 2019-22 (March 29, 2019).

⁴¹Id. Citing R.I. Gen. Laws sec. 36-14-5(a).

⁴²Id. Citing R.I. Gen. Laws sec. 36-14-5(e)(1).

⁴³Id. Citing R.I. Regulation 520-RICR-00-00-1.1.4(A)(1)(b).

⁴⁴RI Ethics Commission, Advisory Opinion No. 2019-22 (March 29, 2019).

⁴⁵*Rochester City Council v. Rochester Zoning Board of Adjustment & a.*, 171 N.H. 271, 194 A.3d 472 (2018).

⁴⁶*Rochester City Council v. Rochester Zoning Board of Adjustment & a.*, 171 N.H. 271, 194 A.3d 472 (2018).

⁴⁷*Committee to Stop Mahwah Mall v. Township of Mahwah*, 2014 WL 10102328 (N.J. Super. Ct. App. Div. 2015).

⁴⁸*Committee to Stop Mahwah Mall v. Township of Mahwah*, 2014 WL 10102328 (N.J. Super. Ct. App. Div. 2015).

⁴⁹*Committee to Stop Mahwah Mall v. Township of Mahwah*, 2014 WL 10102328 (N.J. Super. Ct. App. Div. 2015).

⁵⁰*Piscitelli v. City of Garfield Zoning Board of Adjustment*, 2019 WL 1371557 (N.J. 2019).

⁵¹Id.

⁵²Id.

⁵³Id.

⁵⁴Id.

⁵⁵Id.

⁵⁶Id.

⁵⁷Id.

⁵⁸Id.

⁵⁹Id.

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