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September 28, 2011

Deborah Lime
Office of the Council
6611 Ridge Road
Parma, Ohio 44129

Dear Ms. Lime:

On August 30, 2011, the Ohio Ethics Commission received your letter requesting an advisory opinion. In your letter, you explained that:

- You are a member of the Parma City Council.
- There is a blighted property located next to your private residence, which was acquired by the US Department of Housing and Urban Development (HUD).
- The Cuyahoga County Land Bank purchased the property from HUD for \$1.00.
- The Land Bank notified the City in early September 2011 that it had thirty (30) days to tell the Land Bank what the City plans to do with the property if it acquires the property. You have described four options in such a situation.
- One of the options is that the City can purchase the property for \$1.00 using funds from a federal neighborhood stabilization program (NSP) grant.
- In order to avoid any questions under the Ethics Law, the City has decided to treat the property the same way it treated other property acquired through NSP.
- In such a situation, the structure on the property is demolished and the City offers to give the neighbors on either side half of the lot. If either neighbor declines the offer, the other neighbor will be offered the entire lot.
- Because you are one of the adjoining property owners, one-half or all of the property could transfer to you and your husband.
- If the property is transferred, all costs will be born by the new owner.
- You will abstain from any voting related to the property.

Question and Brief Answer

Is there anything you should or should not be doing related to the property?

Provided that the City is permitted to pursue the course of action it has decided upon, and that you did not use your position as a council member in any way to secure or direct the City's decisions regarding the property, you are not prohibited from acquiring the property under the same terms and conditions as any other adjoining property owners.

However, you are prohibited from participating, as a member of City council, in any voting, discussion, deliberation, or other formal or informal action involving the property. You are also prohibited from using any confidential information that you acquire as a member of council for your personal benefit.

Soliciting or Securing a Thing of Value—R.C. 102.03(D) and (E)

You are subject to the prohibitions of R.C. 102.03(D) and (E), which provide:

- (D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.
- (E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

Real property, regardless of its appraisal, is a thing of value.¹

Generally, R.C. 102.03(D) and (E) prohibit a public official or employee from accepting, soliciting, or using the authority or influence of her public office to secure anything of value, for herself or a family member, where the thing of value could impair her objectivity and independence of judgment with respect to her official actions and decisions for the agency that she serves.²

R.C. 102.03(D) and (E) do not prohibit you from acquiring the property from the City under the same terms and conditions as any other adjoining property owners. However, because you have an interest in the property as a potential owner, you are prohibited from using your public position, in any way, to secure favorable terms for yourself that are not available to

any other adjoining property owners. You are also prohibited, as a member of City council, from voting, discussing, deliberating, or taking any other formal or informal action, on matters involving the property in question.³

For example, you are prohibited from using your position as a council member in any way to direct or recommend the way the City will handle the property. You stated that the City can pursue four paths regarding the property, and that the costs for you to acquire the property differ depending on which path the City pursues. You are prohibited from lobbying any City officials or employees, or officials or employees of any other public agency with which the City is working on this property, to secure a decision that favors your interests.

Further, you are prohibited from using your relationship with any other public officials and employees to secure a favorable decision or action by them regarding the property, the survey, or any costs or other issues related to the lot split. You are also prohibited from participating in executive session proceedings where the property will be discussed.

Using or Disclosing Confidential Information—R.C. 102.03(B)

You must also adhere to the restrictions imposed by R.C. 102.03(B), which provides the following:

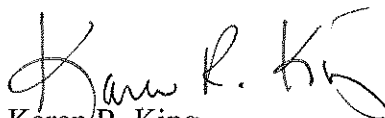
No present or former public official or employee shall disclose or use, without appropriate authorization, any information acquired by the public official or employee in the course of the public official's or employee's official duties that is confidential because of statutory provisions, or that has been clearly designated to the public official or employee as confidential when that confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business.

R.C. 102.03(B) prohibits you from disclosing or using without appropriate authorization any confidential information that you acquired in the course of performing your official duties on City council, such as confidential information discussed in executive session. Accordingly, you are prohibited from using such confidential information to benefit yourself or your property.

On one final note, you should check with the City law director to make certain there are no other legal considerations, outside the Ohio Ethics Law and related statutes, that apply in this situation. Further, in order to minimize any appearance of impropriety, you should continue to provide full disclosure of your interest in the property to City council and the law director.

This opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules. If you have any questions or need additional information, please contact the Commission.

Sincerely,



Karen R. King
Staff Advisory Attorney

Enclosure: Ohio Ethics Commission Information Sheet #8

The Ohio Ethics Commission Advisory Opinions referenced in this opinion are available on the Commission's Web site: www.ethics.ohio.gov

¹ Ohio Ethics Commission Advisory Opinion No. 90-013.

² Adv. Ops. No. 87-009, 92-009, and 92-019.

³ See Adv. Ops. No. 88-004 and 91-004. See also Adv. Op. No. 92-019 (a public official is generally prohibited from participating in matters before her public body that affect property that borders the public official's residential property).