

[Advisory Opinion 1995-17]

[Name1 withheld]

Re: Request for Waiver

Dear [Name1 withheld]:

You have requested a waiver to permit you to provide consulting services to a corporation that does business with Montgomery County. In support of your request, you have submitted the following information.

On August 1, 1994, you retired from employment with Montgomery County as Chief, Division of Parking, Department of Transportation. Thereafter, you established a parking consultant firm, JT Associates. You have negotiated a contract to provide consulting services to a company that wishes to respond to several requests for proposals issued by Montgomery County. Your services for the company would involve consulting on transportation/parking studies with particular orientation toward local government. During your employment with the County, you had been responsible for administering a contract with the company in 1992, which responsibilities included approval of requests for payment and study reports. You have indicated that you would be a consultant of the company and not an employee. Because of the provisions of the Ethics Law regarding former employment, you have requested a waiver to permit you to provide services to the company while the company seeks contracts with the County.

The Ethics Law provides certain restrictions on former public employees:

- (a) A former public employee must not accept employment or assist any party, other than a County agency, in a case, contract, or other specific matter for 10 years after the last date the employee significantly participated in the matter as a public employee.
- (b) For one year after the effective date of termination from County employment, a former public employee must not enter into any employment understanding or arrangement (express, implied, or tacit) with any person or business that contracts with a County agency if the public employee:
 - (1) significantly participated in regulating the person or business; or
 - (2) had official responsibility concerning a contract with the person or business (except a non-discretionary contract with a regulated public utility).

§19A-13 of the Montgomery County Code 1994, as amended.

At this point, the one-year prohibition has expired and need not be addressed further. To decide the 10-year issue, however, the Commission does not have sufficient

information to either (1) determine whether or not the same “case, contract or other specific matter” is involved, or (2) determine whether or not a waiver would be appropriate pursuant to §19A-8(b) of the Montgomery County Code 1994, as amended.

Based upon the information provided, the Commission is not able to make any of these findings and, therefore, must deny the waiver. In the event additional detail is available and you would like to renew your request, the Commission will review the information in the context of the discussion in this decision. If you have any questions regarding this decision, please do not hesitate to contact the Commission.

Sincerely
[signed]
Jay L. Cohen, Chair
Montgomery County Ethics Commission

cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission