

**[Waiver 1991-1]**  
W-91-18

January 28, 1991

TO: Neal Potter, County Executive

FROM: Jay L. Cohen, Chairman  
Montgomery County Ethics Commission

SUBJECT: Request for Waiver re Fundraiser for St. Luke's

This memo will serve as official confirmation of the verbal advice transmitted to you by Barbara McNally, Administrator of the Ethics Commission, regarding your request for a waiver of the Ethics Law permitting you to serve as co-chairman of a testimonial and fundraising dinner for the benefit of St. Luke's Mental Health Center. St. Luke's currently "does business" with the county government in that it receives county contract and/or grant funding.

In an effort to raise additional funds for this center, past and present County Executives have been asked to co-sponsor this event with their names appearing on the invitations and the evening's program. Aside from the use of your name and title, you expressed a concern in co-sponsoring a gathering of invited persons who are, have done or will be doing business with the county.

You have further represented to the Commission that you will not be selecting the invitees and that you will not be personally soliciting funds for St. Luke's Mental Health Center.

Your request raises issues under Section 19A-14 and 19A-16 with the use of the prestige of your office and the solicitation of gifts. Any waiver of these provisions must satisfy the three conditions of Section 19A-8(a):

"After receiving a written request, the Commission may grant to a public employee or a class of public employees a waiver of the prohibitions of this Chapter, Section 411 of the Charter, and Sections 11B-51 and 11B-52 if it finds that:

- 1) the best interests of the County would be served by granting the waiver;
- 2) the importance to the County of a public employee performing his or her official duties outweighs the actual potential harm of any conflict of interests; and
- 3) granting the waiver will not give a public employee an unfair advantage over other members of the public."

After considering both the legal requirements and the self-imposed restrictions noted above, the Commission decided;

- 1) there is a need for mental health services in the county and therefore, the best interest of the county would be served by granting the waiver;
- 2) the importance of your co-sponsorship outweighs the actual or potential harm of any conflict of interest; and
- 3) you will not gain an unfair advantage over the general public by co-sponsoring the event.

If you have any questions regarding this decision, please contact our office.