

[Waiver 1997-7]

July 10, 1997

Mr. Thomas G. LaFleur
[Address withheld]

Dear Mr. LaFleur:

The Montgomery County Ethics Commission has reviewed your letter dated April 21, 1997. In that letter, you express an intention to retire from County employment and an interest in finding full time employment prior to retirement. You request a waiver of Section 19A-13 so that you may seek and secure employment with one of the firms that has requirements contracts with the County. Alternatively, you suggest employment as an independent sub-contractor for one of these firms.

In your letter, you have offered to limit your post-retirement to minimize any potential work conflict of interest. Although your prospective employer may possess County contracts, you would not perform work on any Montgomery County Government contract or on any contract that is administered by or performed for the Department of Information Systems and Telecommunications ("DIST").

Section 19A-13 states:

- (a) A former 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.)
- (c) Significant participation means direct administrative or operating authority to approve, disapprove, or otherwise decide government action with respect to a specific matter, whether the authority is intermediate or final, exercisable alone or with others, and exercised personally or through subordinates. It ordinarily does not include program or legislative oversight, or budget preparation, review, or adoption.

Section 19A-8 permits the Commission to waive the requirements of Section 19A-13. The Commission has approved your waiver request to secure employment with a firm that is currently contracting with the County. The waiver permits you to work as an employee of the contractor or as an independent sub-contractor.

However, the waiver is conditioned upon two restrictions that you proposed in your letter. First, you may not work on any DIST-related work. Second, you may not work on any County contracts during the periods prescribed by Section 19A-13. This second prohibition only applies if the contract falls within the scope of Section 19A-13, e.g. you significantly participated in regulating the firm, had responsibilities concerning a contract with the firm, or significantly participated in the particular matter. See Section 19A-13(a) and (b).

The Commission has concluded that the proposed employment, with these two limitations, is not likely to create an actual conflict of interest.

The Commission hopes that this decision is responsive to your request. Please contact our office if you have any questions regarding this waiver decision.

Sincerely,
[signed]
Barbara McNally
Executive Secretary

BMM:jw