

W-90-15 [Waiver 1990-15]

MEMORANDUM

December 24, 1990

TO: Isiah Leggett, President  
Montgomery County Council

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

SUBJECT: Request for Opinion/Waiver re ICC Vote

The Ethics Commission has reviewed your most recent request for a waiver to allow you, as Council President, to participate in discussions concerning the InterCounty Connector. As you indicated in earlier correspondence to the Commission, your home abuts the proposed right-of-way for the section east of Route 28.

In requesting this waiver you explained that your participation might include chairing meetings and hearings, engaging in discussions, voicing opinions and all other forms of participation except that you intend to refrain from voting on that particular section of the project which may affect your property.

In deciding the merits of a waiver request, the Commission is obliged to determine 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 or potential harm of any conflict of interest; and
- (3) granting the waiver will not give a public employee an unfair advantage over other members of the public.

In regard to item (1), the Commission is of the opinion that it is in the best interest of the county that the President of the Council be allowed to perform his official duty of presiding over these discussions and to mediate them. In consideration of item (2), the Commission further believes that your participation in all discussions of the ICC and recusal from voting on the section of the ICC that would abut your property will not constitute an actual or potential conflict of interest. Lastly, the Commission unanimously agreed that granting the waiver will not give you an unfair advantage over other members of the public provided that at all meetings, hearings, worksessions and at any other gatherings you attend at which the ICC is an agenda item, you must publicly disclose that your residence abuts the proposed alignment of the ICC for the section east of Route 28.

Accordingly, subject to your compliance with the provision stated above, the Commission hereby grants the waiver you have requested. Please contact the Ethics Commission if you have any questions concerning this decision.