



## MONTGOMERY COUNTY ETHICS COMMISSION

Rahul K. Goel  
*Chair*

Susan Beard  
*Vice Chair*

**August 31, 2020**

**AO20-08-011**

You have inquired whether a nonprofit organization dedicated to serving a population which is, for purposes of this inquiry, defined by its exclusion from coverage (and benefit) of Title 29 of the County Code can be established and served by a Member of the Commission on Landlord Tenant Affairs (COLTA) which has authority and responsibility for certain aspects of administration and enforcement of Title 29.

According to the non-profit's mission statement, approximately 150 times a year, Montgomery County residents are facing homelessness through no fault of their own. Homeowners in Montgomery County frequently provide space for rent, especially basements, to individuals or families looking for a place to live. Sometimes these basements have their own cooking and bathroom facilities and meet all Montgomery County Code requirements to allow them to be licensed as an accessory apartment. Montgomery County has laws to help protect tenants when dwelling units are rented and then subsequently condemned for various reasons that make them uninhabitable.

The mission statement states that the problem arises when space is rented out that is not a "dwelling unit" under Chapter 29 of the Montgomery County Code. If and when these spaces are inspected by Montgomery County Code Enforcement and are condemned, the current occupants are forced to leave. While these occupants may have a lease, they need to quickly find shelter that is safe and affordable for them. Unfortunately, many of those individuals or families renting these rooms that do not meet the definition of dwelling units have limited means and cannot afford to move their belongings and put up a required security deposit and pay a first month's rent to be able to move into safe, licensed, and affordable housing. If a condemnation is immediate, they may also not be able to afford to live in a motel until adequate housing can be found. They are now homeless unless county shelters are available. The displaced tenant must find a place as soon as possible to avoid homelessness and to mitigate any damages to the landlord.

A new provision of County law (Chapter 29-35B) specifies that in the situation of a condemnation resulting in the displacement of a tenant, the landlord will be responsible for assistance to displaced tenants. But Chapter 29 only applies to dwelling units as defined in that

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chapter of the County Code. A class of tenants will be unprotected if they live in rooms that are not “dwelling units.”

The proposed non-profit will provide assistance to tenants that do not live in dwelling units and therefore are not covered by County Code Chapter 29.

Given these facts, the Ethics Commission advises that there is no risk of conflict of interest as COLTA only has jurisdiction over matters arising pursuant to Title 29.

Given the proximity of the jurisdiction of COLTA and the mission of the contemplated non-profit, the Commission provides the following additional advice. Any public employee that is involved in a private capacity with the non-profit should not use the employee’s County position to advocate for or seek other County employees to show any preferential treatment or to make referrals to the non-profit. Employees of the Office of Landlord Tenant Affairs or COLTA, excluding those who in a private capacity are associated with the non-profit, could make referrals to the non-profit in the normal course of their operations in the same manner they would make referrals, without preference, to any private entity serving tenants in Montgomery County. The nonprofit may, like other nonprofits, seek grants and funds from the County. The COLTA Commissioner can be involved in seeking such grants or County funds from the County Council or other County agencies other than the Office of Landlord Tenant Affairs or COLTA. The Commissioner must be scrupulous about avoiding use of his position with COLTA to advance the interests of the nonprofit. In any solicitation activity for the non-profit, the Commissioner should avoid reference to his title and position with the County and should make clear that his advocacy for the non-profit is in his capacity with the non-profit.

This advice is conditioned on the facts as presented and, in particular, that the non-profit only serves tenants that are not covered by Chapter 29 because they do not live in “dwelling units” as that term is defined in that chapter.

For the Commission:

A handwritten signature in blue ink, appearing to read "Rahul Goel".

Rahul Goel, Chair