



MONTGOMERY COUNTY ETHICS COMMISSION

Rahul K. Goel
Chair

Steven Rosen
Vice Chair

August 22, 2019

Waiver 19-07-014

Pursuant to § 19A-12(b)(1)(A) of the Public Ethics Law, a public employee must not be employed by or own more than one percent of any business that is regulated by the County agency with which the public employee is affiliated, unless the Ethics Commission grants a waiver of the prohibition. Section 19A-8(b)(3) states that the Ethics Commission may grant a waiver of this prohibition if the Commission concludes that the outside employment will not be likely to create an actual conflict of interest.

Leila Hertzberg is a Customer Service Representative at the Animal Services Division (ASD) of the Montgomery County Police Department (MCPD). She would like to engage in outside employment as a horseback riding instructor at Greystoke Farm, an entity she owns and which is regulated as a licensee of her County agency. As her proposed business and outside employer is regulated by MCPD-ASD, the outside employment is barred pursuant to 19A-12(b)(1)(A), absent her obtaining a waiver from the Ethics Commission under Section 19A-8(b)(3).

In her role as a Customer Service Representative with MCPD-ASD, Ms. Hertzberg greets customers, answers phone calls, prepares and updates pet licenses (for cats and dogs), assists with adoption procedures for pets, tracks performance measures, and rings up sales. She does not handle any aspects of farm or stable licensing. Her licensing duties are strictly related to cats and dogs.

At Greystoke Farm, which she owns, Ms. Hertzberg will be the horseback riding instructor for both children and adults. She will also handle the bookkeeping for the stable. Her only interaction with her County agency will be periodically renewing her County stable license. As she is the only employee, there is no one to hand this task to. The process of renewing a license is a routine, administrative transaction where she fills out the paperwork and mails it to ASD along with a payment. She does not do this on official County worktime. She does not interact in person with the ASD employee handling her licensing request.

A waiver may be issued by the Ethics Commission pursuant to § 19A-8(b)(3) of the Public Ethics Law upon finding that proposed employment is not likely to create an actual conflict. Ms. Hertzberg's official role with MCPD-ASD is in no way related to her proposed outside

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100 MARYLAND AVENUE, ROOM 204, ROCKVILLE, MARYLAND 20850
OFFICE: 240.777.6670 FAX: 240.777.6672

employment with Greystoke Farm. And her outside employment activity and farm ownership is not in any way advantaged by her employment with the County. Therefore, there is no actual conflict of interest in her proposed outside employment with Greystoke Farm. Pursuant to the standard of § 19A-8(b)(3), the Commission grants the waiver of the prohibition of § 19A-12(b).

In reaching this decision, the Commission has relied upon the facts presented by Ms. Hertzberg in her request for a waiver. The Commission notes that while 19A-12(b)'s prohibition is waived, the other provisions of the ethics law are not, including those prohibiting an employee from working on official matters affecting the employee's outside employer. The waiver approval is conditioned on the facts on which the waiver is based remaining unchanged.

For the Commission:



Rahul K. Goel, Chair