Annual Report 1998

Montgomery County Ethics Commission

Members:
Kenneth C. Jackson, Sr., Chair
Laurie B. Horvitz
Alastair McArthur
Lee M. Petty
Walter A. Scheiber

ETHICS COMMISSION

Dear Fellow Citizens:

The Montgomery County Ethics Commission is proud to present its 1998 Annual Report.

As provided in Chapter 19A of the Montgomery County Code, this report presents waivers and advisory opinions issued during the calendar year. Nine meetings were held to review conflict of interest inquiries, issue advisory opinions, review outside employment requests, and examine allegations and complaints of violations.

In 1998 the Commission issued ten formal advisory opinions; granted three waivers and denied two; initiated two and completed three investigations; dismissed two complaints and resolved one by consent order; and reviewed and decided 689 requests for outside employment approval. The Commission amended the Administrative Policies and Procedures for Outside Employment to extend the sunset provisions for Sections 4.5.1 and 4.5.2 which permit County Police officers to use county equipment and to wear police uniforms in security-related outside employment. The Commission also promulgated an emergency regulation to expand the definition of Section 2.7 of the Administrative Policies and Procedures for Outside Employment to permit the use of police uniforms for traffic control at private institutions.

100 Maryland Avenue, Room 204
Rockville, Maryland 20850
301/217-1041

During 1997, the Commission publicly expressed its opinion that County laws may not adequately restrict the political activities of County officials who serve on quasi-judicial boards and commissions. In 1998, the Commission petitioned the Charter Review Commission to consider a Charter amendment that would insulate certain quasi-judicial officials from political influences. The goal of this effort would be to minimize limits on political expression while reducing conduct that creates the appearance of partisan decision making. (See Appendix E)

Respectfully submitted,

Kenneth C. Jackson, Sr.
Chairman

NOTE: All publications and forms are available in front of the Ethics Commission office or by request to 301-217-1041

INTRODUCTION

The Montgomery County Ethics Commission is composed of five members who are appointed by the County Executive and confirmed by the County Council. Each member must reside and be registered to vote in the County. No more than three members may be registered in the same political party.

The Commission is mandated by the County Executive and County Council to:

(1) act on complaints of violations filed with the Commission;

(2) respond to waiver requests;

(3) act on outside employment approval requests;

(4) render advisory opinions;

(5) prepare and distribute financial disclosure forms and lobbying disclost1fe forms; and

(6) maintain, as official custodian, forms and records filed under the County Public Ethics Law, Chapter 19A of the County Code.

During their terms of office, members must not: (1) hold or be a candidate for any state, County or local elected or appointed office; (2) be an employee of the state; political subdivision of the state; or a public body created by the state or a political subdivision of the state; (3) be an employee or officer of a political party; (4) participate in any state, County, or local political campaign; (5) participate in support of or opposition to any questions placed on the ballot by state, County , or local government, except a question that directly affects the Commission; or (6) be a lobbyist.

Commissioners serve four-year terms. The terms of no more than two members may expire in anyone year .A member serves until a successor is appointed unless the member resigns before the appointment of a successor. A vacancy must be filled only for the remainder of the unexpired term. The Chair is elected annually.

Current Commission members are Kenneth C. Jackson, Sr. (D), elected Chairman in February, 1998 and 1999; Elizabeth K. Kellar (D) appointed in June, 1999; Alastair McArthur, (I); Lee M. Petty (R); and Walter A. Scheiber (D).

In performing its duties, the Commission may: conduct investigations; authorize the issuance of summonses and subpoenas, and administer oaths and affirmations; impose sanctions; adopt regulations; extend deadlines for distributing and filing forms; conduct public education and information programs; publish opinions; establish procedures; interpret the Ethics law and advise persons on its application; and take all other steps necessary to carry out the purposes of the Ethics Law.

A person affected by a final decision of the Commission on a complaint, request for waiver, or request for other employment approval may ask the Commission for a rehearing or reconsideration. This request must be filed in writing within 30 days after the issuance of the Commission's final decision and stays the time in which an appeal to the Circuit Court may be filed until the Commission takes final action on t11e request.

A final decision of the Commission on a complaint, request for waiver, or request for approval of '"other employment" may be appealed to the Circuit Court under the applicable Maryland Rules of Procedure governing administrative appeals. An appeal does not stay the effect of the Commission's decision unless the Court orders a stay.

The Commission meets monthly, as necessary, to conduct its business. In 1999, the Commission held eleven meetings. Meeting schedules and agendas are posted in front of the Commission's office.

The Commission's meetings, deliberations and decisions are subject to both the Maryland Open Meeting Act and the Montgomery County Public Ethics Law. Meetings are conducted in open session when required by the Open Meetings Act and in closed session when required by the Ethics Law. The Commission has adopted a policy to transact as much of its business as possible in public. (See attached Open Meeting policy.) At the discretion of the Commission, the public may pose questions and offer comments at open sessions. Matters normally discussed in open sessions include revisions or amendments to Commission policies, regulations and the Ethics Law, and other matters not confidential by law.

During closed sessions, the Commission typically reviews and decides requests for opinions, waivers, and other employment approval. The Commission also reviews and acts on complaints regarding possible ethics violations in closed session.

INQUIRIES

In addition to formal communications to the Commission itself, Commission staff receives many informal questions concerning points of law, requests for information and help in completing other employment, financial disclosure and lobbying forms. Informal requests are not documented or included in this report.

ADVISORY OPINIONS

Advisory opinions are issued by the Ethics Commission pursuant to Section 19A-7 of the Ethics Law. Any person subject to the Ethics Law, the Code of Ethics for members and employees of the County Board of Appeals[1], or the illegal gifts and kickback and public employment provisions of the County Procurement Law[2] may ask the Commission for an advisory opinion on the meaning or application of those provisions. A supervisor or department head also may request an advisory opinion about the application of any of those laws to the employment-related conduct of any public employee they supervise.

The Commission is required by law to keep the names of the requestor and the subject of an advisory opinion confidential prior to and after the issuance of an opinion, unless the subject of the opi1rion requests or permits disclosure. In some cases, protecting the identity of the subject is not possible, for example, when the situation described in the opinion is unique, or the media has reported the issues involved. Whenever possible, the Ethics Commission drafts its opinions so that deletions to protect identities are unnecessary. Otherwise, opinions may be published with identifying information redacted. If the Commission finds that the privacy interest of a public employee or other person clearly outweighs the public's need to be informed about Commission actions, the Commission may publish a list of opinions that have not been published with an explanation stating the reason why each was not published.

The Commission is required to publish annually a list of all unpublished opinions, stating the reason why each was not published. All reasonable and necessary steps must be taken to make unpublished opinions useful for public guidance, and to keep confidential the identity of any person affected by the opinion request.

The advisory opinions issued by the Commission in 1998 are attached as Appendix A.

[1] § 2-109 of the Montgomery County Code.

[2] §§ 11B-51 and 11-B-52 (a) of the County Code.

WAIVERS

After receiving a written request, the Commission may grant a public employee or a class of public employees a waiver of the prohibitions of the Ethics Law and Sections 11B-51 and 11 B-52 (a) of the Procurement Law if, in the opinion of the Commission, certain statutory standards are met. The Commission may impose conditions appropriate to fulfill the purposes of Chapter 19 A when it grants a waiver.

The Commission must publicly disclose every waiver. If a request for a waiver is denied, the Commission may publish its response as an advisory opinion. The identity of any public employee who applies for a waiver is confidential unless and until the waiver is granted. If the waiver is denied, the Commission may reveal the identity of the public employee who requested the waiver only if the employee authorizes public disclosure or the Commission has cause to believe that the employee has engaged in the conduct for which the waiver was sought.

In 1999, the Commission granted one waiver and denied one. The granted waiver is set forth in Appendix B. The denied waiver is presented as an advisory opinion in Appendix A.

INVESTIGATIONS

Under Section 19A-9 of the Ethics Law, the Commission may investigate, on its own initiative, any matter the Commission believes may constitute a violation of the Ethics Law or of any of those related provisions of the Board of Appeals or Procurement laws that the Commission enforces, if the Commission finds in writing that an investigation is necessary to resolve the matter.[1] The Commission may authorize its staff, the County Attorney, special counsel or another person retained by the Commission to conduct the investigation. The Commission must not actively participate in any investigations.

An investigator acts under the authority of the Commission and may require any person to:

(1) respond under oath to written questions within 30 days;

(2) produce verified copies of records within 30 days; and

(3) on 15 days notice, attend a deposition to answer the investigator's questions under oath.

The investigator must disclose to the person from whom information is sought the general nature and purpose of the inquiry .If the person refuses to cooperate with the investigation, the investigator may seek a court order compelling compliance.

All investigations are conducted confidentially. The investigator must give The Commission a confidential written report of the factual findings, sources of information and the identity of each person providing information. The Commission may file, on its own motion, a complaint based on a report received from an investigator, if the complaint is filed within the time limits established by law.

[1] §§ 2-109, 11B-51, and 11B-52(a) of the County Code.

The following data concerning the Commission's investigation activities are:

Number of investigations pending from 1997	6
Number of investigations initiated in 1998	2
Number of investigations completed in 1998	3
Number of investigations pending from 1998	5

COMPLAINTS

Any individual may file a confidential written complaint with the Commission. A complaint must allege facts under oath that would support a reasonable conclusion that a violation occurred. The complaint must be filed within the later of two years after: (1) the alleged violation or (2) the date when the complainant learned of facts that would indicate a violation occurred. Based on the facts provided by the complainant, the Commission may request Commission staff, the County Attorney, special counselor any other person to conduct an investigation.

If, in the Commission's opinion the complaint does not allege facts sufficient to state a violation the Commission may dismiss the complaint. When a complaint is dismissed, the Ethics Law requires that the Commission inform the subject of the complaint that the complaint was filed and dismissed, but prohibits the Commission from disclosing the identity of the complainant.

If, based on a complaint and an investigative report, the Commission finds reasonable cause to believe that a violation has occurred, the Commission must hold either an adjudicatory hearing or dispose of the matter by consent order.

In 1998, the Commission received seven sworn complaints. Of these, four are under investigation; two were dismissed for lack of cause; and one was investigated and resolved by consent order.

ADJUDICATORY HEARINGS

If the Commission holds an adjudicatory hearing, the Commission must:

(1) give the subject of the complaint a copy of the complaint, including the identity of the complainant; and
(2) give the subject of the complaint copies of those portions of approved minutes of the Commission relating to the complaint, and any report to the Commission issued by the investigator .

The Commission may:

(1) issue summonses and subpoenas to compel attendance at a hearing;

(2) require any person to produce records at a hearing; and

(3) administer oaths or affirmations to witnesses.

The subject of the complaint and the County are the parties to the hearing. Each party may be represented by counsel and may present evidence and cross- examine witnesses. The prosecutor may be an attorney in the County Attorney's office, or a special counsel. The Commission may admit and give appropriate weight to evidence, including hearsay that possesses probative value commonly accepted by reasonable and prudent persons.

Hearings are closed to the public, unless the subject of the complaint requests that it be open.

The Commission must make written: findings of fact and conclusions of law based on the record made at the hearing. If the Commission finds that no violation occurred, the Commission must dismiss the complaint.

If the Commission dismisses a complaint without holding a hearing or after holding a closed hearing, the Commission may not release to the public the identity of the subject of the complaint, the complainant, or any witness.

If, however, the Commission: finds that a violation has occurred, the complainant and the subject of the complaint must be promptly notified of the Commission's findings and conclusions and the disposition of the complaint. The Commission must publicly disclose its findings and conclusions, including the identity of the subject of the complaint, the complainant and the witnesses.

If the Commission finds a violation, the Commission may:

(1) seek injunctive relief;

(2) proceed against the violator for a class A violation under the County Code;

(3) seek an appropriate civil recovery;

(4) seek the imposition of disciplinary action, including termination of employment, suspension of compensation or other disciplinary action;

(5) order the subject of the complaint to stop any violation; and

(6) issue a public or private reprimand.

The Commission may also refer to an appropriate prosecuting attorney any information indicating that a criminal offence may have occurred.

No hearings were held in 1998.

LOBBYING

Any individual or organization must register as a lobbyist under the Ethics Law if during the year that individual or organization:

Spends more than $500 or receives more than $500 to communicate with a public employee to influence legislative action by a County agency; or

Spends more than $500 on meals, beverages, transportation, lodging, services, special events or gifts to influence executive or administrative action by a County agency.

In 1998, 102 lobbyists registered with the Ethics Commission and filed 167 lobbyist activity reports. Appendix D contains a list of those who registered and those who tiled lobbyist reports.

OUTSIDE EMPLOYMENT

The Ethics Law prohibits a public employee from engaging in any other employment unless the employment is approved by the Commission. The Commission may impose conditions on its approval of other employment and may adopt appropriate procedures to receive and decide these requests. The procedures and policies for obtaining outside employment approval are contained in Executive Regulation 32-97 (Appendix C). A request for approval of outside employment is confidential until the commission takes action on the request.

In addition to the requirement for Commission approval of other employment generally, an 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 employee is affiliated; or negotiates or contracts with the County agency with which the employee is affiliated. In addition, an employee must not hold any employment relationship that would impair the impartiality and independence of judgement of the employee, unless the Commission grants a waiver.

The Commission received 689 requests for outside employment approval in 1998. All were approved with two receiving special conditions. Attached as Appendix C is a list of those approved without special conditions and a copy of each of the approvals that were specially conditional.

FINANCIAL DISCLOSURE STATEMENTS

The Ethics Law requires that certain county employees and volunteers The Ethics Law and a supplementing Executive Regulation specify, by employment position, who must file a financial disclosure form, and whether their disclosure is public or confidential. The forms are identical, however, the public forms may be viewed by the general public and confidential forms may be reviewed only by authorized government personnel.

As of the date of this Report, the following persons must file a **public** financial disclosure statement:

County Executive

County Council members

Chief Administrative Officer and Deputy Chief Administrative Officer Special Assistants to the County Executive

Director and deputy director of each department, principal office, and office in the County government

Members of the County Board of Appeals Members of the Ethics Commission

Members of the Merit System Protection Board

Persons appointed to serve in an acting capacity in positions listed above Persons designated by the County Executive under Method 2 Persons designated by the County Council

The following persons must: file a confidential: financial disclosure form:

Asst. Chief Administrative Officers
Attorneys in the Office of the County Attorney
Hearing Examiners
Members of the Fire and Rescue Commission
Paid members of boards, commissions, and committees
Members of the Board of License Commissioner

Members of the Revenue Authority
Housing Opportunities Commission
Non-merit public employees and above minimum of pay grade 20
Any executive branch public employee whom the County Executive
Designates under method 2[1]
Any legislative branch public employee designated by the County Council

Each public employee required to file an annual financial disclosure statement must also file a statement (1) within 15 days after the employee begins employment in a position required to file; and (2) before the employee terminates his employment with the County and is in a position required to file. A final paycheck will not be issued until the employee has filed the required financial disclosure statement.

In 1998, 1131 persons filed FY97 Financial Disclosure Statement with the Ethics Commission. 103 persons filed Public Financial Statements and 1028 persons filed Confidential Financial Disclosures.

[1] An Executive Regulation is currently being prepared to update the position to which these requirements apply.

The Commission carefully reviewed the official’s letter and other correspondence regarding this matter.

Based upon the information, the Commission determined that the Ethics Law did not prohibit this official's participation in Phase I, i.e., the designation of Chevy Chase Village, because neither the official nor his wife had an interest in that area that could be directly affected by his participation. This conclusion was based upon an understanding that the two phases were distinct and that the decisions in Phase I would not have a direct or binding impact upon decisions in Phase II. In the event that the Commission's understanding was incorrect, the official was advised to obtain a waiver from the Commission because Section 19A- 11(a)(1)(C) could prohibit his participation in Phase I.

Further, the Commission concluded that the official could not participate in any deliberations, discussions or decisions regarding Phase n because his wife has an interest in a property that could be directly affected by the decisions made m Phase II.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

February 18, 1998

A County employee requested advice as to whether she may accept tickets from the American Film Institute ("AFT") to attend an AFI awards dinner.

PERTINENT FACTS

As set forth in your memorandum the pertinent facts are as follows:

1. The County has selected AFI, pursuant to a competitive selection process, to be the tenant and to program the Silver Theatre. That Theatre is the key resource in the revitalisation of the Downtown Silver Spring Urban Renewal Area.

2. The County and AFI currently are negotiating the Silver Theatre agreement.

3. To finalize the agreement, representatives of the County, including you, will be attending a meeting of the Executive Board of AFI in Los Angeles.

4. AFI has requested that you attend an awards dinner on January 19, in order for you to meet some of the other principals from the Los Angeles campus of AFI and administrative personnel. The dinner is a cultural event and a fundraiser for AFI.

5. The cost of a ticket for the awards dinner is $1,000. (The value of the dinner ticket is $125; the remaining $875 is designated as a donation to AFI).

6. [One individual] would receive one ticket; [Another] would receive two tickets (one for himself and one for his spouse).

APPLICABLE LAW

The Montgomery County Ethics Law prohibits a county employee from knowingly accepting a direct or indirect gift from any individual or organization that the public employee knows or reasonably should know:

* * *

(2) does business with the County agency with which the public employee is affiliated;

(3) owns or operates a business that is regulated by the County agency with which the public employee is affiliated; or

(4) has an identifiable economic interest that is different from that of the general public, which the public employee may substantially affect in performing the public employee's official duties.

Montgomery County Code, §19A-16(c)[1] However, §19A-8(a) authorizes the Ethics Commission, after receiving a written request, to grant to a public employee a waiver of the prohibitions of this Chapter. . fit finds that:

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[1]Subsection (c) does not apply to:

(1) meals and beverages under $50 per event or a higher amount, not to exceed $100, that the Commission sets;

(2) ceremonial gifts or awards with a resale value of $100 or less, if the gift or award commemorates an event or achievement associated with the public employee.

(3) items of personal property, other than cash, worth less than $10; (4) reasonable expenses for food, travel, lodging, and scheduled entertainment of the public employee, given in return for the public employee's participation in a panel or speaking at a meeting;

(4) reasonable expenses for food, travel, lodging, and scheduled entertainment of the public employee, given in return for the public employee’s participation in a panel or speaking at a meeting;

(5) gifts to a public employee who must file a public financial disclosure statement under subsection 19A-17(a), if the gift:

(A) is a courtesy extended to the office; and

(B) consists of tickets or free admission for the employee and one guest to attend a charitable, cultural. civic, labor, trade, sports, or political event, including meals and beverages served at the event;

(6) any item that is solely informational or of an advertising nature, including a book, report, periodical. or pamphlet, if the resale value of the item is $25 or less;

(7) a gift to the employee or a member of the employee's immediate family if:

(A) the value of the gift is less than $150,and

(B) the gift is given for a wedding, graduation, birth of a child, or similar non-recurring personal milestone;

(8) gifts from a relative;

(9) honoraria or awards for achievement; or

(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.

WAIVER DECISION & ADVISORY OPINION

After considering the pertinent facts in the light of the applicable law, the Commission finds that:

1. the tickets to the awards dinner have a market value of $I,OOO;

2. acceptance of free tickets from AFI would constitute receipt of a gift;

3. AFI does business with the County agency with which both [individuals] are affiliated; [2] and

4. acceptance of the tickets from AFI is prohibited, absent a waiver.

After carefully considering the criteria for a waiver under §19A-8(a), the Commission concludes, unanimously, that none of the criteria are met under the circumstances presented by this request. Therefore, the Commission will not grant the requested waiver.

[The requestors also. ..asked if [they] may attend the awards dinner as the guest of a county employee who is permitted to accept such gifts under §19A- 16(d)(5). That section provides that the prohibitions of subsection (c) do not apply to gifts to a public employee who must file a public financial disclosure statement under subsection 19A-17(a), if the gift is a courtesy extended to the office and consists of tickets or free admission for the employee and one guest to attend a charitable, cultural, civic, labor, trade, sports, or political event, including meals and beverages served at the event.

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(10) a specific gift or class of gifts which the Commission exempts from this Section after finding in writing that accepting the gift is not detrimental to the impartial conduct of the business of a CO1Dlty agency.

[2] AFI also has an identifiable economic interest that is different from that of the general public, which you may substantially affect in performing your official duties.

The Commission [advised] that [the individuals] may attend the awards dinner as a guest of a county employee who is permitted by §19A-16(d)(5) to accept two tickets to the awards dinner. However, the Commission also notes that the employee who files the public financial disclosure statement must report the acceptance of *two* tickets, each valued at $1,000, on his or her statement. If [the individuals] attend the dinner as a guest of another employee, [they] must provide a copy of this letter to that employee. Thereafter, that employee should transmit a written acknowledgement stating that he or she has received a copy of this letter.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

March 6. 1998

The Ethics Commission has been asked by an agency head for advice regarding a firefighter's desire to enter into an agreement with The Laser Center for a discount on the cost of laser eye surgery.

According to the information forwarded to the Commission, The Laser Center offered the firefighter a considerable discount on the cost of laser eye surgery in return for: (I) any referrals the firefighter might make to the Center after the surgery; and (2) participating in a "press interview" concerning how corrective eye surgery had improved the firefighter's job performance with the Montgomery County Department of Fire and Rescue Services.

The request implicated the following provisions of §19A-14 of the Montgomery County Ethics Law regarding the use of the prestige of a county office"

(a) A public employee must not intentionally use the prestige of office for private gain or the gain of another. Performing usual and customary constituent services, without additional compensation, is not the use of prestige prohibited by this subsection.

(b) Unless expressly authorized by the Chief Administrative Office, a person must not use an official County or agency title or insignia in connection with any private enterprise.

However, after receiving a written request, the Commission may grant a public employee a waiver of the prohibitions of §19A-14 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 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.

The Commission determined that participation in an interview stating how the corrective eye surgery improved job performing as a firefighter for Montgomery County would constitute the use of the prestige of office contrary to the prohibition in §19A-14(a). To engage in an interview of this kind would require that the firefighter: (1) apply for and receive a waiver of §19A-14(a); and (2) is authorized by the Chief Administrative Officer to use an official County or agency title or insignia in connection with the fulfillment of either of his obligations under the agreement.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

April 7, 1998

A member of the County Council staff requested advice regarding her participation as the Council analyst on the Department of Health and Human Services ("DHHS ") budget and programs in view of her husband' s "involvement" with the Family Therapy Institute of Washington, D.C. (the "Institute"), an organization that has a contract with DHHS. In particular, she asked:

> 1. For guidance on whether she may make recommendations to the Council regarding County funds that the Institute receives or has a potential to receive;
>
> 2. If she may continue in her full role as analyst for the DHHS budget and programs if her husband recuses himself from responsibilities at the Institute associated with seeking and administering County funds; and
>
> 3. If there is any conflict of interest in her now reviewing those services that DHHS negotiated with the Institute before her husband's new role at or relationship with the Institute.

PERTINENT FACTS

As set forth in her letter, the pertinent facts are as follows:

1. She is a member of the County Council's central staff and its principal analyst for the DHHS budget and programs generally, and the capital budget of the Montgomery County Public Schools.

2. Prior to October 1, 1997, her husband rented space in Rockville from the Institute for use in his private counseling practice. The relationship at that time was merely that of landlord and tenant.

3 .In October 1997, the owner of the Institute requested that her husband take "an active role" in the Institute's business, including help with expanding its services. For this work, the Institute's owner provides her husband with free space in which to see his clients. In addition, her husband is able to choose cases from those who call the Institute looking for therapy.

4. The Institute has a "non-profit arm" that contracts with the DHHS to provide therapeutic services to juvenile sex offenders. The maximum compensation under the current contract, which terminates on June 30, 1998, is $50,000.

5. If the Council appropriates the funds to continue this program, DHHS will request proposals to award the contract on a competitive basis beginning July 1, 1998, and the Institute or its non-profit arm may again be awarded the contract.

APPLICABLE LAW

The Montgomery County Ethics Law prohibits a public employee, unless permitted by a waiver, from participating in any matter that affects, in a manner distinct from its effect on the public generally, any property or business in which a relative has an economic interest, if the public employee knows about the relative's interest. §19A-ll(a)(I)(C). A public employee also must not participate in a matter if the public employee knows that any party to that matter is a business in which a relative of the public employee has an economic interest- § 19A-11(a)(2)(B).

However, Sec. 19A-8(a) authorizes the Commission, after receiving a written request, to grant to a public employee a waiver of the prohibitions of § 19A-11(a) if the Commission 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 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;

CONCLUSION

After carefully considering the matter, the Commission advised that § 19A-ll prohibited her from making any recommendation to the County Council regarding the program or services that DHHS provides or may provide through the Institute or its non-profit arm, including, but not limited to the funding of that program.

Furthermore, treating her letter also as a request for a waiver of that prohibition, the Commission unanimously concluded that she did not meet the waiver requirements of § 19A-11.

Therefore, she must not participate in any manner in the analysis or making of any recommendations regarding the program or services that DHHS provides or may provide through the Institute or its non-profit arm.

MONTGOMERY COUNTY ETHICS COMMISSIONMON

ADVISORY OPINION

May 11, 1998

The Ethics Commission reviewed a letter from a former employee requesting a waiver, if necessary, to accept employment with the Columbia Telecommunication Corporation (CTC).

The requestor indicated the following pertinent facts:

1. During his former employment with Montgomery County, the requestor significantly participated in the selection of CTC to provide cable television consulting engineering services to Montgomery County, and in the negotiation and administration of the ensuing contract with CTC.

2. During that same period, CTC also provided services to the Montgomery County Department of Transportation and the Department of Information Services and Telecommunications under other contracts in which the requestor had no involvement of any kind.

3. In October 1997, CTC offered the requestor employment to provide technical and administrative support to Montgomery County's Tower Committee, a group established after the requestor left county service. That employment would not require that the requestor provide any services in connection with the engineering consulting services contract in which he had significantly participated as a county employee.

After a review of Ethics Law restrictions on the employment of former county employees by county contractors,[1] and, applying those restrictions to the facts as set forth in the requestor's original letter, the Commission advised that:

Although he had official responsibility on behalf of Montgomery County for the CTC contract, §19A-13's l-Year Total Ban on any employment of him by CTC had expired because it had been more than one year since he left the employ of

[1] §19A-13 of the Montgomery County Code restricts the employment of a former county employee under either of two circumstances. First there is a general one-year ban with respect to any employment for any purpose by a county contractor under certain circumstances (the "1 Year Total Ban"). For one year after the effective date of termination from County employment a former public employee may 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 significantly participated in regulating the person or business or had official responsibility concerning a contract with the person or business (except a non-discretionary contract with a regulated public utility) §19A-13(b).

Second, there is a ten-year ban on any employment with regard to specific matters (the "10 Year Partial Ban"). A former county employee is prohibited from accepting employment or assisting 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. §19A-13(a).

Montgomery County, Maryland. However, the 10- Year Partial Ban continued to apply to him. In particular, the requestor is prohibited from accepting employment with CTC in connection with its performance of the cable TV engineering consulting services contract, and that prohibition will continue for a period of ten years from the date he left county service.

Based on the requestor's representation that he will not be employed to assist CTC in the performance of that contract, the Commission concluded that his proposed employment by CTC is not prohibited by the Montgomery County Ethics Law, and therefore, no waiver is required. Were it otherwise with respect to either the current contract or a new contract to provide such services, the prohibition would apply, a waiver would be necessary, and, on the facts submitted, the Commission would not grant a waiver. Although it determined that the Ethics Law did not prohibit the proposed employment, the Commission cautioned that, in its opinion, the ten year ban with respect to the engineering consulting services contract applies to any and all forms of assistance, including, but not limited to, assisting in the preparation of any claim under or extension of the current contract and any bid or proposal on a new engineering consulting services contract with Montgomery County. The requestor was advised that he may not, during the 10- year period, perform any service, directly or indirectly, for CTC in connection with that contract or any successor contract. He also may not, in the opinion of the Commission, disclose to CTC any confidential information concerning a county agency that he acquired as a county employee or otherwise use confidential information acquired as a county employee for his personal gain or that of another.
(Montgomery County Code, §19A-15.)

After receiving and reviewing the Commission's advice and accepting employment with CTC, the requestor informed the Commission in a March 25, 1998 letter, that in 1992, on the advice of the County's Office of Procurement, all of the consulting contracts between CTC and various County agencies, including the cable TV engineering consulting services contract that he administered as a county employee, were combined into one contract between CTC and the Cable Office that he formerly managed as a county employee. Consequently, he requested that the Commission waive the 10-year ban of §19A-13(a) because it would be impossible for him to perform any CTC work for the County without providing those services under the consulting engineering service contract administered by the Cable Office.

§ 19 A-S(c) of the Ethics Law authorizes the Commission" after receiving a written request, to waive the 10-year ban imposed by §19A-13(a) if the Commission finds that:

(1) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or

(2) the proposed employment is not likely to create an actual conflict of interest.

When it grants a waiver, the Commission may impose appropriate conditions to fulfill the purposes of the Ethics Law. §19A-8(e).

Having reviewed the matter in light of the facts presented in his letter of March 25, 1998, the Commission determined that the facts presented by the requestor did not meet the requirements for a waiver under §19A-13(b). Therefore, his request for a waiver was denied

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

May 18, 1998

In October, 1997 a public official requested permission to accept outside employment, to be performed at the official's home or in the Circuit Court Bar Library, as a law clerk for a local solo practitioner. The Commission approved the request with the following conditions:

1. That the official not participate, as an outside employee, in any matter (litigation, lobbying, counseling or other representation) involving:

   (a) Montgomery County, MD;

   (b) an officer, employee or unit of Montgomery County, 1ru; or

   (c) any other public officer, employee, agent or agency funding, in whole or in part, by Montgomery County, MD.

2. That the outside employer must implement administrative "walls" that would effectively insulate the official from participating in such matters;

3. That, except as provided in § 19A-11(b)(1), the official not participate as a county employee in any matter that affects the solo practitioner, either directly as a business entity or indirectly in its representation of a client, unless the official applies for and receives a waiver from the Commission with respect to the particular matter;

4. That there be compliance with all other applicable provisions of the Ethics Law; including, by way of example but not limitation, the prohibition of the intentional use of the prestige of the official's office for his private gain or that of another (§19A-14) and the prohibition of the disclosure of confidential information (19 A -15).

On January 30, 1998, the official requested an opinion regarding his ability to work m his outside employer's office. That office is leased to the solo practitioner by the law firm (the "landlord firm"), whose attorneys practice before the public body on which the official serves on a regular basis. In the January request, the official indicated that:

1. The arrangement with the landlord firm gives his employer access to the use of duplication equipment, fax machines, the library and the receptionist for clients present in the office, but not to answer the employer's telephone. This same access is available as well to the public official.

2. Other than the lease, there are no financial arrangements between the solo practitioner and the landlord: firm or their personnel.

3. The landlord firm and the official's employer refer clients to each other in cases of conflict of interest or lack of expertise. In these matters the landlord firm and the employer work as co-counsel; however, the official will not be involved in any such case.

4. The landlord firm and the official have agreed to avoid any discussion or participation in the office relating to any matter which might be before the official's public body on which the official serves or would be seen to be a potential conflict as well as implement "administrative walls" to insulate the official from participation in such matters.

The Montgomery County Public Ethics Law is founded on the following express legislative findings and statement of policy:

(a) Our system of representative government depends in part on the people maintaining the highest trust in their officials and employees. The people have a right to public officials and employees who are impartial and use independent judgement.

(b) The confidence and trust of the people erodes when the conduct of County business is subject to improper influence or even the appearance of improper influence.

(c) To guard against improper influence, the Council enacts this public ethics law. This law sets comprehensive standards for the conduct of County business and requires public employees to disclose information about their: financial affairs.

(d) The Council intends that this Chapter except in the context of imposing criminal sanctions be liberally construed to accomplish the policy goals of this Chapter.

Montgomery County Code, §19A-2.

Section 19A-12(a) of the Ethics generally prohibits county employees, including the official, from engaging in any other employment unless the employment is approved by the Commission, and authorizes the Commission to impose conditions on its approval of such other employment.

The Commission considered the information provided by the official. However, in light of the legislative findings and policy underlying the Ethics Law and the prohibitions on conflicts of interest, the Commission determined that in order to avoid any actual, potential or apparent conflict of interest, the official must recuse himself on every matter before the public body of which he serves in which the landlord firm or any of its attorneys is involved.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

June 10, 1998

A member of the Montgomery County Energy and Air Quality Committee (the "Committee") asked the Commission for an advisory opinion, under §19A-7 of the Montgomery County Ethics Law, on the question of whether he or his law firm is prohibited from responding to a request for proposals (RFP) issued by the Department of Public Works and Transportation (DPWT) for services to assist the County in addressing electric industry restructuring. The requester also sought a waiver of any Ethics Law prohibition, if necessary.

Pertinent Facts

The requester provided the following pertinent facts:

1. The requester is an attorney with an area law firm.

2. The requester's firm is active in restructuring efforts in the transportation and energy industries, including electric industry deregulation. The requester's principal area of practice is energy law, which includes gas and electric restructuring.

3. The requester has received a letter from DPWT, addressed to the firm per his attention, in which DPWT stated that it is soliciting consultant services for electric utility deregulation and invited the firm to respond to an enclosed RFP.

4. The requester has been a member of the Committee since July 1997.

5. The Committee advises the Department of Environmental Protection (DEP) and County officials on air quality and other environmental matters, including electric restructuring matters.[1]

[1] Although this statement may reflect accurately the Committee's activities thus far during the requester's tenure, the Montgomery County Code provides for the Committee to assist the County Executive and the County Council. See §18A-5 (a). See also §18A-8 (a) ("The Committee has the following duties: Advise the County Executive and the County Council of the activities of the Committee in furthering the goals of this Chapter and Chapter 3 . . . . .").

6. The requester is a member of the Committee's Task Force On Indoor Air Quality, and his efforts as a member of the Committee have been focused on indoor air quality.

7. During the requestor's tenure, the Committee has discussed electric restructuring and indoor air quality, but not the need for, desirability, scope or other aspects of hiring an outside consultant to assist the County in electric restructuring matters.

8. DPWT anticipates that a roundtable discussion will commence in 1998, and a pilot program will begin on July 1,2000.

9. Although the Committee advises the DEP and County officials on electric restructuring matters, the advice does not and will not relate to the scope, nature or implementation of any contract awarded in connection with the RFP.

10. The requester has not, as a member of the Committee, participated in the RFP process in any way, and the Committee will not have any authority over the DPWT contract.

Applicable Law

The Energy and Air Quality Committee Law.

The Committee is a creation of§18A-5 of the Montgomery County Code:

There is hereby established an Advisory Committee on Energy and Air Quality to assist the County Council and the County Executive in carrying out the purposes of this Chapter and Chapter 3. The Committee consists of 15 members appointed by the County Executive, subject to confirmation by the County Council. One member must be designated by the Executive and confirmed by the Council to serve as chair of the Committee. Appointees must be citizens of the County who are technically knowledgeable and interested in energy and air quality.

* * *

(b) Members of the Committee serve without compensation

Section 18A-8 of the Code gives the Committee the following duties

(a) Advise the County Executive and the County Council of the activities of the Committee in furthering the goals of Chapter [18A - Energy Policy] and Chapter 3 [Air Quality Control];

(b) Develop recommendations to promote and implement immediate and long-range energy consciousness in all segments of the community;

(c) Comment on or assist in developing programs to meet air quality standards and to promote healthy indoor and outdoor air quality;

(d) Identify areas and methods to encourage voluntary participation in energy conservation efforts and air quality improvements;

(e) Educate the public and private sectors about the efficient use of energy and its direct benefits for improved air quality;

(f) Carry out such other duties as may be assigned from time to time by the County Executive and the County Council to assist in fulfilling the purposes of this Chapter.

The Montgomery County Ethics Law.

The request implicated several provisions of the Montgomery County Ethics Law. Section 19A-12 (b) prohibits a public employee from: (1) being employed[1] by or owning more than one percent of any business[2] that negotiate or contract with the *County agency* [3] with which the public employee is affiliated; or (2) holding any employment relationship that would impair the impartiality and independence of the public employee.[4] For these purposes, "public employee" includes "any person appointed by the County Executive or County Council to a board, commission, committee, task force or similar body, whether or not . . . the person is compensated for serving on the body . . ."[5]

Section 19A-11 (a) (1) (B) prohibits a public employee from participating, as a public employee, in any matter that affects, in a manner distinct from its effect on the public generally, any business in which the public employee has an economic interest.[6]

Section 19A-14 (a) prohibits a public employee from intentionally using the prestige of his or her office for private gain or the gain of another.

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[1] "Employment or employ mean engaging in an activity for compensation." §19A-4 (g).

[2] "Business means any for-profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institute, trust, or foundation." §19A-4 (b)

[3] "County agency" includes "any board, commission, committee, task force, or similar body appointed by the County Executive or County Council." §19A-4 9a) (2)

[4] This prohibition is buttressed by §19A-13, which prohibits a former public employee from: (a) accepting employment or assisting 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 participate in the matter as a public employee; and (b) for one year after the effective date of termination form County employment, from entering 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 significantly participated in regulating the person or business or had official responsibility regulated public utility).

[5] §19A-4 (m) (3) (A).

[6] *"Interest"* or *economic interest* means any source of income or any other legal or equitable economic interest . . . which is owned or held, in whole or in part, jointly or severally, directly or indirectly." §19A-4 (j).

Section 19A-8 authorizes the Commission, after receiving a written request, to grant waivers of these prohibitions if the Commission makes certain findings.

3. The Montgomery County Procurement Law.

Although the requester understandably inquired only about the inhibitions of the Ethics Law, the request also implicates §IIB-52 (a) of the Montgomery County Procurement Law. That law prohibits a contractor from employing certain public employees while having a contract with the County:

> Unless authorized by law or the Ethics Commission under Chapter 19 A, a person while engaged in a procurement matter with the County must not employ or offer to employ a public employee if the duties of the public employee include significant participation in the procurement matter. Public employee, employ, and significant participation as used in this section are defined in Chapter 19A.[1]

Conclusion & Advice

Applying the applicable law to the pertinent facts presented by the requester, the Commission concluded:

1. A member of the Committee is a "public employee" for the purposes of the County Ethics Law and the County Procurement Law;

2. However, because the Committee will play no part in the award or administration of the consultant contract, the requester would not be an employee of a "business" that contracts with the County agency with which the requester is affiliated as a public employee and his duties as a member of the Committee would not include significant participation in the procurement of electric utility deregulation consultant services.

[1] The Ethics Law defines significant participation as:

> 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.

§ 19A-13 (c).

3. The facts presented did not suggest that the requester had or will use the prestige of his office as a member of the Committee for his private gain or the gain of another. Neither do they indicate that his private employment would impair his impartiality and independence as a member of the Committee, as long as he recuses himself from any Committee discussion or action regarding electric utility deregulation if he or his firm obtain the consultant' s contract with the County.

Therefore, the Commission advised the requester that neither the Ethics Law nor the Procurement Law prohibited him or his firm from submitting a proposal in response to the RFP for consultant services for electric utility deregulation and, if selected, entering into a contract to perform those services. However, the requester also was advised that unless he obtains a waiver he must recuse himself from any Committee discussion or action regarding electric utility deregulation if he or his firm ultimately is awarded the contract.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

June 10, 1998

An Associate County Attorney, who entered her appearance as co-counsel for Montgomery County in the appeal of an action against a certain bank, asked the Commission if the conflict of interest provisions of§19A-ll(a)(2)(H) of the Ethics Law prohibit her from participating in the appeal because she maintains two bank accounts at and has two outstanding loans with the bank.

Pertinent Facts

1. The requester entered her appearance as co-counsel on behalf of the County in a matter in the Court of Special Appeals of Maryland in which the County seeks review and reversal of an adverse decision of the Circuit Court for Montgomery County in a dispute between the County and the bank.

2. The requester maintains two deposit accounts at the bank and has two motor vehicle loans presently outstanding with the bank.

3. The income from the deposit accounts is less than $1,000 per year.

4. The loans do not constitute a source of income and do not have a mechanism for alteration absent a payment default.

5. The outcome of the litigation will have no impact on either the deposit accounts or the loans.

Applicable Law

The Montgomery County Code prohibits a public employee from participating in certain matters if a creditor or debtor of the employee can directly and substantially affect an economic interest of the public employee or a relative of the public employee:

(a) Unless permitted by a waiver, a public employee must not participate in:

* * *

(2) Any matter if the public employee knows or reasonably should know that any party to the matter is:

* * *

(H) any creditor or debtor of the public employee or a relative if the creditor or debtor can directly and substantially affect an economic interest of the public employee or relative.

Montgomery County Code, §19A-ll. For the purposes of this provision, "interest or economic interest" means "any source of income or any other legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly."[1]

Conclusion & Advice

On the facts presented by the requester, the Commission concluded that the bank cannot directly and substantially affect an economic interest of the public employee or a relative of the public employee. Therefore, the Commission advised the requester that §19A-ll (a) (2) (H) did not prohibit the requester from participating in the appeal.

[1] Interest does not include, among other things, an interest in a time deposit or demand deposit in a financial institution or in a money market fund with assets of at least $10,000,000;

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

July 21, 1998

The Ethics Commission received and considered a letter from a former employee requesting a waiver, if necessary, to perform work on a County contract as an employee of the contractor.

PERTINENT FACTS

1. The requestor resigned from Montgomery County employment in February 1998.

2. The requestor was employed by Montgomery County for twelve (12) years, the majority of which the requestor served as Chief of Procurement Operations.

3. The last two years of employment with the county the requestor was assigned to the 800 MHz Public Safety Radio Project and did not work as Chief of Procurement Operations.

4. During the period of employment with Montgomery County as Chief of Procurement Operations, the requestor was responsible for the administration of County contracts which included a contract with KPMG in 1989 for the installation of the County's automated procurement system and subsequent upgrade of both the procurement and financial systems by KPMG in 1993. The contract with KPMG is still valid and KPMG provides annual maintenance support.

5. KPMG has been advised that the County's Department of Finance intends for KPMG to upgrade the County's financial system if funding is approved and the County and KPMG successfully negotiate an amendment to the existing contract.

6. The requestor believes it is in the County's best interest to permit her to work on the contract because she has an intimate knowledge of both the County's procurement office operations and KPMG's purchasing software.

APPLICABLE LA W

Section 19A-13 of the Montgomery County Code restricts the employment of a former county employee under two circumstances. First, there is a general one-year ban with respect to employment of a former county employee by a county contractor under certain circumstances (the " 1 Year Total Ban") .For one year after the effective date of termination from County employment a former public employee may 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 significantly participated in regulating the person or business or had official responsibility concerning a contract with the person or business (except a non-discretionary contract with a regulated public utility). §19A-13(b).[1]

Second, there is a ten-year ban on employment with regard to specific matters (the "10 Year Partial Ban"). A former county employee is prohibited from accepting employment or assisting 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. §19A-13(a).

The Commission is authorized to waive either of these prohibitions upon a written request and under certain circumstances. In particular, the Commission may grant a waiver of the proh1Ditions of subsection 19A-13 if it finds: (1) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or (2) the proposed employment is not likely to create an actual conflict of interest. §19A-8(c). If the Commission determines that a waiver should be granted, the Commission may impose conditions appropriate to ful.fi11 the purposes of the Ethics Law and must disclose to the public any waiver that it grants.

[1] For the purposes of this law, 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. §19A-13(c).

CONCLUSION

Although the requestor had official responsibility on behalf of Montgomery County for the KPMG contract, she is not restricted by the 1-Year Total Ban because more than one year has elapsed since she participated in the contract. However, the 10-Year Partial Ban continues to apply to her with regard to the KPMG contract with Montgomery County, and will continue for the remainder of ten years from the date she no longer participated in the contract. In particular, although she may be employed by KPMG, she may not work on the contract on which she significantly participated as a county employee.

The Commission cautions that, in its opinion, the ten year ban with respect to the KPMG contract applies to any and all forms of assistance, including, but not limited to, assisting in the preparation of any claim under or extension of the current contract and any bid or proposal on a new contract with Montgomery County .The requestor may not, during the 10 year period, perform any service, directly or indirectly, for KPMG in connection with that contract or any successor contract. She also may not, in the opinion of the Commission, disclose to KPMG any confidential information that she acquired as a county employee concerning a county agency or otherwise use confidential information acquired as a county employee for her own personal gain or that of another. Montgomery County Code §19A-15.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

November 10, 1998

A manager in the Department of Permitting Services requested an advisory opinion on whether she could serve on the Board of Directors of the Montgomery County Students Construction Trades Foundation, Inc. Her request apparently was founded on the understanding or concern that service on the Foundation's Board constitutes "other employment" for the purposes of the Montgomery County Public Ethics Law, which prohibits a county employee from engaging "in any other employment unless the employment is approved by the Commission."[1]

Pertinent Facts

The request provided the following pertinent information: 1) the Foundation is non-profit foundation established by the Montgomery County Public Schools and local businesses and professionals to promote vocational education; 2) members are not compensated; 3) the Construction Trades program permits Montgomery County public school students the experience of having a role in the development and construction of a sellable house; and 4) all proceeds from the sales of the houses are returned to the program to cover its costs.

Applicable Law

If, as the Commission understands, members of the Foundation's Board are not compensated for their service, membership on the Board does not constitute "other employment" and therefore does not require approval by the Ethics Commission.[2] Nevertheless, attention is called to the prohibitions set forth in the Conflicts of Interest provisions of the Ethics Law. In particular, §19A-ll(a)(2) of the Ethics Law prohibits a public employee from participating in any matter if the public employee knows or reasonably should know that any party to the matter is any business in which the public employee is an officer, director, or trustee unless the county employee applies for and receives a waiver by the Commission.[3]

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[1] Montgomery County Code, §19A-12(a).

[2] For Ethics Law purposes, "employment or employ means engaging in an activity for compensation," and "compensation means any money or thing of value, regardless of form, including the sale or delivery of tangible or intangible property, that an employer pays or agrees to pay for services rendered."

[3] There are exceptions to this prohibition. First. if a disqualification under subsection (a) leaves less than a quorum capable of acting, or if the disqualified public employee is required by law to act or is the only person authorized to act, the disqualified public employee may participate or act if he or she discloses the nature and circumstances of the conflict. §19A-1l (b)(1). Second, subsection (a) does not apply to an administrative or ministerial duty that does not affect an agency's decision on a matter. §19A (b) (2). Finally, subparagraph (a) (2) (a) does not apply to a public employee who is an officer, director, or trustee of an organization, if the public employee discloses the relationship, is not compensated by the organization, and has no managerial responsibility or fiduciary duty to the organization, no authority to approve the organization's budget; no authority to select any officer or employee of the organization; and no authority to vote on matters as a member of the governing body of the organization.

Findings

Applying the applicable law to the pertinent facts presented by the requester, the Commission concluded that although the requester did not need the Commission's approval to accept the appointment, as a county employee, the requester must seek and obtain a waiver before participating, as a county employee, in any matter m which the Foundation is a party.

Furthermore, although the requester may accept the appointment, care must be taken not to violate the misuse-of-prestige-of-office provisions of §19A-14. Those provisions prohibit:

(a) a public employee from intentionally using the prestige of his or her office for private gain or the gain of another;

(b) a person from using an official County or agency title or insignia in connection with any private enterprise, unless expressly authorized by the Chief Administrative Officer; and

(c) a public employee from using any County agency facility, property, or work time for personal use or for the use of another person unless the use is generally available to the public or authorized by a County law, regulation, or administrative procedure.

Conclusion

In summary, the Ethics Law does not prohibit the requester from accepting appointment to the Board of the Montgomery County Students Construction Trades Foundation and does not require Commission approval of that service. However, depending upon the authority of the Board, the requester may be required to refrain from acting as a county employee on matters involving the Foundation, unless the requestor: first obtains a waiver from the Ethics Commission with respect to a particular action or kind of action. Furthermore, the prestige-of-office provisions will prohibit the use of the requester's office, title or county time or resources to benefit the Foundation, absent appropriate authorization.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

December 16, 1998

Pursuant to Section 19A-7 of the Montgomery County Public Ethics Law,[1] a department head requested an advisory opinion on the following questions:

> [W]hether a Montgomery County police officer may, consistent with Montgomery County ethics law, write a letter to the editor in which s/he identified him or herself as a Montgomery County Department of Police Officer. If so, would the opinion of the Ethics Commission be the same if the officer also identified him or herself by rank?

APPLICABLE LAW

The pertinent provisions of the Montgomery County Ethics Law are Section 19A-14(a) and (b) of the Montgomery County Code:

> (a) A public employee must not intentionally use the prestige of office for private gain or the gain of another. Performing usual and customary constituent services, without additional compensation, is not prohibited by this subsection.
>
> (b) Unless expressly authorized by the Chief Administrative Officer, a person must not use an official County or agency title or insignia in connection with any private enterprise.

From time to time, the Commission also promulgates regulations as appropriate; however, there is no Ethics regulation pertinent to your questions.

ANALYSIS & OPINION

The emphasized language constitutes essential elements of the two Public Ethics Law prohibitions in this area. Only the intentional use of the prestige of one's office for private gain or the gain of another is prohibited. Similarly, only the unapproved use of an official County or agency title or insignia in connection with any private enterprise is proscribed. Absent such factors, the Ethics Law does not prohibit one from identifying himself as a Montgomery County Police Officer, even by rank. in a letter to the editor or otherwise.

Of course, this advisory opinion is necessarily limited to the provisions of the Public Ethics Law as applied to the general questions presented in your letter. The facts of a specific situation could bring a letter to the editor within one of the Public Ethics Law prohibitions; however, the Commission will not speculate about such facts. If you are concerned about a

[1] Section 19 A -7 authorizes a department head to ask the Commission for an advisory opinion about the meaning or application of Chapter 19 A to the employrnent -related conduct of any public employee supervised by the department head.

specific situation, which you believe satisfies those requirements, you may seek another advisory opinion based on specific factual allegations or file a complaint with the Commission. In addition, other laws or regulations, such as personnel laws and regulations, may prohibit such letters. However, the restraints of other laws and regulations are beyond the ken of this Commission, and we neither express nor intimate any opinion concerning any law or regulation other than the Montgomery County Public Ethics Law.

MONTGOMERY COUNTY ETHICS COMMISSION

ADVISORY OPINION

December 16, 1998

A County official has requested an advisory opinion "regarding various potential situations which might occur" as a result of his relationship with a law firm with which he was affiliated.

FACTS PRESENTED

The official's letter presented the following material facts:

1. He is a partner in a law firm that was established in 1985.

2. The firm represents approximately 150 condominium and homeowner associations throughout the Washington area, many of which are in Montgomery County.

3. He intends to abandon his partnership interest in the law firm effective December 31, 1998.

4. His current partner will reconstitute the partnership effective January 1, 1998, with another attorney, who is no relation to the official but, coincidentally, bears the same last name.

5. Commencing January I, 1999, the official will become “of Counsel” to the new firm. In that capacity he will continue to service clients of the firm, providing them “legal opinions and advice regarding various issues.” He will, however, have no partnership interest in the new firm. His relationship will be that of “an independent contractor working on a part time basis,” and he will be paid by the firm on an hourly basis for work performed on behalf of the firm's clients.

6. He will not represent any client before any Maryland or Montgomery County government agency or quasi-judicial agency, or interact with the executive branch of Montgomery County government on behalf of any client.

7. He will recuse himself "from voting on any matter in which the firm is involved."

QUESTIONS PRESENTED

The official asked the Commission a number of questions regarding the application of the Public Ethics Law to these facts. The first six concerned potential restraints on the acts of his former partner and other members or employees of the new firm. The remaining questions concerned his activities on behalf of the new firm and its clients.

With regard to the official's former partner and other members and employees of the new firm, the official asked whether they may represent clients before the Montgomery County Commission on Common Ownership Communities; the Montgomery County Board of Appeals; the Maryland-National Capital Park and Planning Commission in connection with any zoning changes or any other issue, including special exceptions; the County Council in connection with land-use matters, e.g., zoning changes, master plans, etc., or any other matter; and the County Council and the County Executive regarding legislation, e.g., storm water management pond inspections and repairs. He also asked if they may represent clients in attempting to obtain executive branch agency action, e.g., advocating for certain code interpretations with the Department of Planning Services, lobbying for certain items such as traffic lights adjacent to condo associations, etc.

With regard to the official's activities, he asked if he may, as an independent contractor to the firm, continue to represent and advise clients on matters unrelated to Montgomery County government--even though the firm also is representing the same client before other Montgomery County agencies--so long as: (1) he is not involved in any such matter; and (2) recuses himself from voting on any such matter.

APPLICABLE LAW

The questions the official raised implicated several provisions of the Montgomery County Public Ethics Law, which is codified as Chapter 19A of the Montgomery County Code, and Ethics Commission Regulation 32-97.

1. Conflicts-of-Interest Provisions.

The conflicts-of-interest provisions of the Public Ethics Law are set forth at §19A-ll(a). In pertinent part, these provisions prohibit a public employee from participating as a public employee in, among other things:

(1) any matter that affects, in a manner distinct from its effect on the public generally, any business in which the public employee has an economic interest;
(2) any matter if he or she knows or reasonably should know that a party to the matter is a business in which the public employee has an economic interest as an employee; or
(3) any business or individual that is a party to an existing contract with the public employee, if the contract could reasonably result in a conflict between private interests of the public employee.

These provisions also prohibit a public employee from: (1) intentionally using the prestige of his or her office for private gain or the gain of another; (2) disclosing confidential information relating to or maintained by a County agency that is not available to the public; or (3) using confidential information for personal gain or the gain of another. §§19A-14 (a) and 19A-15 (a).

After receiving a written request, the Commission may waive any of these provisions if certain standards are met. §19A-8.

2. *Other Employment Provisions.*

The Public Ethics Law. Section 19A-12 of the Public Ethics law contains a number of general and specific restrictions on the "other employment" of public employees. Subsection (a) generally prohibits a public employee, including the official, from engaging in any “other employment” unless the employment is approved by the Commission.[1] If the Commission approves the “other employment,” it may impose conditions on its approval *Id.*[2] In pertinent part, subsection (b) specifically restricts a public employee from holding any employment relationship that would impair the impartiality and independence of judgement of the public employee, unless the Commission grants a waiver under 19A-8(b). Subsection (c)(4) exempts elected public employees from these restrictions “in regard to employment held at the time of election, if the employment is disclosed to the Board of Supervisors of Elections before the election. " After receiving a written and subject to statutory standards, the Commission also may waive any of these provisions. §19A-8.

[1] The Public Ethics Law defines the term public employee to include a member of the County Council, and employment or employ to mean "engaging in an activity for compensation." §19A-4(g) and (m)(1).
[2] Although you have not requested approval your "other employment' by the new firm, in view of your need for a decision before January 1, 1999, the Commission is treating your letter as both a request for an opinion regarding potential conflicts-of-interest and a request for approval of your other employment.

b. The Outside Employment Regulation. The "other employment" provisions of the Public Ethics Law are supplemented by an Outside Employment Regulation of the Commission.[1] In pertinent part, the Regulation prohibits county employees, including the official,[2] from being "employed by or having any economic interest in any business subject to the authority of or doing business with the county agency or department for which they work."¶4.4. The Regulation also authorizes the waiver of its provisions in accordance with the criteria established in §19A-8 of the Code.¶4.13.

3. *Underlying Policy and Liberal Construction of the Public Ethics Law.*

Both the "other employment" and "conflicts-of-interest" provisions are expressly intended to be "liberally construed" to accomplish the policy goals of the Public Ethics Law. §19A-2(d). Those goals are embodied in "legislative findings and statements of policy" set forth at subsections (a), (b) and (c) of §19A-2:

> (a) Our system of representative government depends in part on the people maintaining the highest trust in their officials and employees. The people have a right to public officials and employees are impartial and use independent judgement.
>
> (b) The confidence and trust of the people erodes when the conduct of County business is subject to improper influence or even the appearance of improper influence.
>
> (c) To guard against improper influence, the Council enacts this public ethics law. This law sets comprehensive standards for the conduct of County business and requires public employees to disclose information about their financial affairs.

Violations of the Public Ethics Law are subject to various civil and criminal sanctions. §§19A-27-32.

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[1] The current regulation is Regulation 32-97, which was approved by County Council Resolution 13-1134.

[2] For purposes of this Regulation, *county employee* means "[a]ny person, including elected or appointed officials (unless excepted in context) who is compensated in whole or in part by the Montgomery County Government or the Revenue Authority, Housing Opportunities Commission. Board of License commissioners, independent fire department or rescue squads." ¶2.2.

ANALYSIS & ADVISORY OPINION

The conflicts-of-interest provisions of the Montgomery County Public Ethics Law do not proscribe the independent activities of the outside employers of individuals who also are public employees.[1] Therefore, the requester's public office does not prevent any member or other employee of the new firm from representing clients before the Montgomery County Commission on Common Ownership Communities, the Montgomery County Board of Appeals, the Maryland-National Capital Park and Planning Commission, the County Council, or in attempting to obtain executive branch agency action of any kind.

Nor do the conflict-of-interest provisions limit the official's activities as a *private* employee. His activities as a public employee, however, are limited by those provisions. He may not participate as an official in any matter if he knows or reasonably should know that the firm is a party to the matter or represents a party to the matter. For these purposes, participation includes more than just voting. It reaches any action of any kind as a public official. For example, it not only precludes him from participating in a hearing on the matter, but also prohibits him from discussing any aspect of the matter with his colleagues, staff or any other Montgomery County official or employee. His recusal from the matter must be complete and total.

The conflicts-of-interest provisions of the Public Ethics Law also prohibit him from "intentionally using the prestige of his office for private gain or the gain of another,"[2] and from disclosing confidential information (relating to or maintained by a County agency) that is not available to the public or using confidential information for personal gain or the gain of another.

Although the conflicts-of-interest provisions do not limit his activities as a private employee, the "other employment" provisions of the Public Ethics Law do. In particular, these provisions prohibit him from engaging in any "other employment' unless it is approved by the Commission, and that approval may contain conditions.[3] Furthermore, because the Public Ethics Law defines the term employment or employ to mean "engaging in an activity for compensation," this "other employment" approval requirement and its conditions apply whether the "other" relationship technically is, at common law, an employer/employee relationship or an independent-contractor relationship.

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[1] § 19A-12(d) prohibits a person from knowingly employing a public employee unless the Commission approves it or the other employment restrictions do not apply, and § 19A-14(f) prohibits a person from influencing or attempting to influence a public employee to violate the Public Ethics Law.

[2] "Performing usual and customary constituent services, without additional compensation, is not prohibited by this subsection."

[3] Subsection (c)(4) excepts "an elected public employee in regard to employment held at the time of election, if the employment is disclosed to the Board of Supervisors of Elections before the election. Because your relationship with the new firm did not exist at the time of your recent election, the exception set forth at Subsection does not apply.

The Commission also considered the Ethics Regulation's mandate that county employees not be employed by or have an economic interest in any business doing business with the county agency or department for which they work. At first blush, this prohibition might appear to be broad enough to prohibit an official from being employed by a law fim1 that represents clients before the public body on which the official sits. The phrase "doing business with" is however, defined for the purposes of the Public Ethics Law. §19A4(e) defines the term to mean:

(1) being a party with a County agency to transaction that involves at least $1,000 during a year;

(2) negotiating a transaction with a County agency that involves at least $1,000 during a year; or

(3) submitting a bid or proposal to a County agency for a transaction that involve at least $1,000 during a year .

Because this definition limits the phrase to transactions with county agencies, representing clients before a public body is *not* "*doing business with*" the public body, as that phrase is defined for the purposes of the Public Ethics Law. Therefore, the official's employment by the new firm is not proscribed by the Regulation.

In sum, in order to engage in the relationship described, the official must: (1) obtain the approval of the Commission; (2) comply with any conditions the Commission places on its approval of that "other" employment; and (3) refrain from the activities prohibited by the conflicts-of-interest provisions of the Public Ethics Law.

OTHER EMPLOYMENT APPROVAL

Based on the facts as presented in his letter, the Commission has approved the official's employment by the new firm in the capacity stated, subject to: (1) the attached General Supplemental Conditions; and (2) the following special conditions:

Special Conditions

1. He must not participate, as an employee of or independent contractor with the ~ in any matter (litigation, advice, research or other kind) involving:

    (a) Montgomery County, Maryland;

    (b) any officer, employee or unit of Montgomery County, Maryland; or

    (c) any other public officer, employee, agent or agency funded, in whole or in part, by Montgomery County, Maryland.[1]

2. He must not advise, represent or otherwise participate in providing any legal service to or on behalf of a client on any matter at the same time the firm is advising, representing or otherwise providing legal services to or on behalf of that client in connection with any matter that is or will come before the public body of which he is a member or any other officer, employee, agent or unit of the legislative branch of Montgomery County, Maryland;2

3. Except as provided in §19A-11(b)(1) of the Public Ethics law,3 the official may not participate as a county employee in any matter that affects the firm, either directly as a business entity or indirectly in its affects the firm, either directly as a business entity or indirectly in its representation of a client, unless he applies for an receives a waiver from the Commission with respect to the particular matter; and

4. He must require the firm to erect appropriate administrative "barriers" that effectively insulate him from every matter in which his participation is prohibited by one or more of these special conditions.

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[1] This restriction does not apply to litigation in the Circuit Court for Montgomery County not involving (1) Montgomery County, Maryland; (2) any officer, employee, agent or unit of Montgomery County, Maryland; or (3) any other public officer, employee, agent or agency funded, in whole or in part, by Montgomery County, Maryland.

[2] This special condition does not prohibit you from providing legal services to or on behalf of clients whom the firm is advising, representing or otherwise serving before any county official, employee or unit not in the legislative branch of the Montgomery County government, or any bi-county or state official, employee, or agency funded, in whole or in part, by Montgomery County, Maryland, so long as the services you provide are wholly unrelated to the "county" matters being handled by the firm.

[3] §19A-11(b)(1) permits a disqualified public employee to act "[i]f a disqualification under subsection (a) leaves less than a quorum capable of acting, or if the disqualified public employee is required by law to act or is the only person authorized to act, and the disqualified public employee...discloses the nature and circumstances of the conflict."

This approval of the "other employment" described in his inquiry does not constitute a waiver for the purposes of the conflicts-of-interest provisions of the Public Ethics Law or for any other purpose.[1] Thus, he must continue to comply with all other applicable provisions of the Public Ethics Law, including, by way of example but not limitation, the prohibition of the intentional use of the prestige of his office for his private gain or that of another (§19A-14) and the prohibition of the disclosure of confidential information (§19A-15). If particular circumstances arise that require a waiver and appear to meet the appropriate standard, he may request a waiver.[2]

[1] As generally approved and conditioned, your relationship with the new firm does not require a waiver of §19A-12(b) unless circumstances arise that, notwithstanding the general and special conditions and restrictions, would impair your impartiality and independence with regard to a particular matter.

[2] See, e.g., §19A-8 of the Public Ethics Law and §4.13 of Regulation 32-97.

Appendix B

Waivers

MONTGOMERY COUNTY ETHICS COMMISSION

WAIVER

Request by County employee Jane Lawton

February 6, 1998

The commission reviewed a request from the Montgomery County Cable Administrator to waive § 19A -11 of the Ethics law to permit the administrator to participate in the cable franchise negotiations between Montgomery County, Maryland, and Prime Cable Corporation.

PERTINENT FACTS

According to the request:

1. Montgomery County was negotiating a renewal of its cable franchise and a transfer of the franchise from Southwest Bell-Media Ventures to the Carlyle Group, the Sandier Group and Prime Cable Corporation, etc.

2. The County's Cable Administrator is responsible for the administration of the County's cable franchise agreement and it is necessary that the administrator participate in the franchise negotiations.

3. The administrator had participated in the County's other two cable franchise transfers and the knowledge gained from those dealings is valuable to the County's negotiations.

4. At a meeting of the franchise-negotiating group, a partner in the law firm of Hogan and Hartson joined the group of attorneys working on behalf of the cable provider, Prime Cable Corporation.

5. The estranged spouse of the administrator is a partner in the health practice group of Hogan and Hartson, a firm of over 500 lawyers. The partner representing Prime Cable Corporation is in the firm’s communications group. They do not work on any matters together.

6. The administrator has been separated from the spouse for four years. All separation agreements have been finalized regarding financial interests and obligations of the parties.

7. In 1993, when the County's cable franchise was transferred from Hauser Communications to Southwest Bell-Media Ventures, Hauser Communications was represented by Hogan and Hartson and the administrator served as Special Assistant to the County Executive. The Ethics Commission granted a waiver to the administrator in order to permit participation in those negotiations.

APPLICABLE LA W

In pertinent part, the conflict of interest provisions of the Montgomery County Ethics Law prohibit a public employee from participating in any matter that affects, in a manner distinct from its effect on the public generally, any business in which a relative of the public employee has an economic interest unless permitted by a waiver. Montgomery County Code, § 19A-ll (a) (1) (C). A public employee also is prohibited from participating in any matter if the public employee knows that any party to that matter is a business in which a relative of the public employee has an economic interest. §19A-11 (a) (2) (B).[1]

§19A-8 (a) authorizes the Commission, after receiving a written request, to grant a public employee a waiver of the provisions of §19A-11, if it finds that: (I) 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.

WAIVER DECISION

The Commission, one member abstaining, found that §19A-ll prohibited the administrator from participating in the cable franchise negotiations without a waiver. However, the Commission also found that the administrator met the waiver requirements of §19A-8 (a), *i.e.*, the best interests of the County would be served by granting the waiver, the importance to the County of the administrator performing official duties outweighs the actual or potential harm of any conflict of interest, and granting the waiver will not give the administrator an unfair advantage over other members of the public. Therefore, the Commission granted a waiver from the conflict of interest provisions of §19A-ll.

In particular, the Commission bases its decision upon: (1) the administrator's unique qualifications to participate in cable franchise matters; (2) the absence of any personal involvement by the administrator's spouse in cable matters; (3) the "final" nature of the separation arrangements with the estranged spouse; and (4) the attenuated connection

[1] For the purposes of Ethics Law, "relative" includes the public employee's spouse. §19A-4 (n) (1).

between the administrator's income and any financial benefit that the spouse might receive from Hogan and Hartson's representation of the cable company.

MONTGOMERY COUNTY ETHICS COMMISSION

WAIVER

Request by County employee Duc Duong

February 27, 1998

The Ethics Commission has reviewed a request from an employee for permission to accept an employment offer with the High Technology Council (HTC) of Maryland after taking an early retirement offer.

PERTINENT FACTS

The following information was offered in support of the request

The employee is an Assistant Director and Chief of Business Retention in the Department of Economic Development with primary responsibility for developing and implementing programs aimed at facilitating business expansion and attraction, including the technology business incubator (MCTEC) which the employee helped to initiate in 1992.

As a public employee, responsibilities in connection with the MCTEC initiative were as follows:

1. Developed the business plan to establish MCTEC and requested County funding for it;

2. Negotiated the lease to locate MCTEC at its current address;

3. Drafted the agreement, between the Department of Development and the HTC, under which the HTC manages MCTEC;

4. Served on the MCTEC Advisory Board selecting applicants for the incubator program;

5. Reviewed MCTEC financial reports; and

6. Work on the expansion of MCTEC.

In October 1997, you were solicited by the HTC to the position of Director of Industry Networks and Initiatives, which involves the following duties and responsibilities:

1. Managing the operations and activities of area high technology organizations and networks;

2. Assisting network steering committees in developing positions and agendas for legislative action;

3. Identify programs that networks might wish to undertake; and

4. Transitioning MCTEC into a permanent facility at the Shady Grove Life Sciences Center.

APPLICABLE LAW

The Montgomery County Ethics Law restricts the employment of former county employees as follows:

(a) A former public 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.

Montgomery County Code, §19A-13

However, after receiving a written request, the Commission may grant a waiver of the prohibitions of subsection 19A-13 if it finds that:

(1) the waiver is needed to ensure that competent services to the County are timely and available;

(2) falling to grant the waiver may reduce the ability of the County to rule or retain highly qualified public employees; or

(3) the proposed employment is not likely to create an actual conflict of interest.

Montgomery County Code, §19A-8(b).

WAIVER DECISION

Clearly, the employee significantly participated in a host of matters relating to HTC, including drafting the agreement between HTC and the Department of Economic Development under which the HTC manages MCTEC. Therefore, the employee would be prohibited from accepting the proposed employment unless the Commission waived the prohibition of §19A-13.

However, because the HTC, although not an agency of county government, is a non-profit entity created by the County to serve as a partner with high technology businesses in the County and to promote County interests, the Commission concluded that the employee's proposed employment by HTC was not likely to create an actual conflict of interest. To the contrary, the new position, in many ways, would be so consistent with his former public duties as to be virtually a continuation of that employment.

After careful consideration of the law, as regards this particular case, the Commission granted a waiver of the provisions of §19A-13.

MONTGOMERY COUNTY ETHICS COMMISSION

WAIVER

Requested by former employee Robert Hunnicutt

June 10, 1998

A former public employee sought a follow-up advisory opinion and, if necessary, a waiver in connection with his employment by Columbia Telecommunications Corporation (CTC) to provide services under its cable TV engineering consulting services contract with Montgomery County.

Pertinent Facts

The requestor's initial request did not indicate that he would be providing services in connection with a matter in which he had significantly participated as a public employee. Therefore, the Commission had previously advised that he did not need a waiver to become an employee of CTC or to provide services to Montgomery County, as long as he did not represent CTC in any matter in which he had significantly participated as a Montgomery County employee. Following receipt of that written advice, he advised the Commission of his need to participate in the full range of consultant services being provided by CTC under its cable T .V. engineering consulting services contract with Montgomery County, some of which were in connection with matters in which he had significantly participated as a Montgomery County employee. Therefore, he requested a waiver of §19A-13(a). The Commission denied the request and, subsequently, he asked the Commission to reconsider the denial. In support of his request for reconsideration, he submitted further documentation and appeared before the Commission.

Applicable Law

Section 19A-13(a) of the Ethics Law prohibits a former public employee from accepting employment or assisting 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.[1] However, Section 19A- 8(c) of the Ethics Law also gives the Commission the discretion, after receiving a written request, to waive that prohibition if the Commission finds either: (1) that failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or (2) the proposed employment is not likely to create an actual conflict of interest.[2]

---

[1] Montgomery County Code, § 19A-13 (a).

[2] § 19A-8 (c).

Conclusion and Decision

After carefully reviewing his request for reconsideration and the documents and statements he has offered in support, the Commission has decided that because the interests of CTC and the County with respect to the specific services he is to provide are virtually identical, his participation is not likely to create an actual conflict of interest.[1] Therefore, exercising its discretion under §19A-8, the Commission hereby grants a waiver of the ten-year ban and permits him to provide services in the performance of the CTC/Montgomery County cable T.V. engineering consulting services contract on those matters on which he previously significantly participated as a Montgomery County employee.[2]

[1] The Commission notes that the timing of the disclosure of this need to participate in matters in which the requestor previously had significant participated as a public employee made the Commission's decision to exercise its waiver discretion a much closer question than it need have been.

[2] The Commission also cautions that this waiver is based in large measure on the unique circumstances presented, and is not precedent for generic waivers for consultants' employees. Each waiver request must and will be decided on the particular facts presented.

Appendix C

Outside Employment Requests

The Montgomery County Government employees who have requested approval for employment outside of their county service and their employers are:

Employee	Title, Employer	Special Conditions
Charles A. Adams, III	Coordinator, Peninsula Regional Medical	
Guity Adjoodani	Piano Teacher, Self-employed	
Sharon L. Albaugh	Loan Officer, Columbia National Mortgage	
Brenda M. Alexander	Security Officer, Grady Management	
	Security Officer, DARCAR Motors	
	Security Officer, Chambers Management	
Carlos O. Alfaro	Public Safety Officer, IPC International Corp.	
Harold K. Allen	Traffic Coordinator, Muslim Community Center	
	Security Officer, Scotland Community Development, Inc.	
Indrid Alston	Therapist, Urban Behaviroal Assoc.	
Tony L. Ammons	Security Officer, Grady Management, Inc.	
	Security Officer, Federal Realty Investment	
	Security Officer, Montgomery County Teachers Federal Credit Union	
	Security Officer, Fenguard Security	
Augustine J. Anastasi	Security Officer, G Street Fabrics	
	Security Officer, St. John the Baptist Catholic Community	
Robert H. Andrews	Installer, Banner Glass	
Richard L. Armagost	Security Officer, Caribbean Cultural Studio	
Scotty Arnold	Security Officer, Insignia Residential Group	
Stephen R. Auger	Auto Detailer, J & M Auto Detailing	
	Security Officer, Montgomery Investigative Services	
Nicholas Badalian	Food/Drink Server, The Hangar Club	
Edwin Barber	Security Officer, Grady Management, Inc.	
Jeffrey A. Barclay	Paramedic, Maryland Ambulance Service	
Paul T. Barker	Security Officer, Walter Johnson High School	
	Security Officer, Scotland Community Develop-Ment	
	Security Officer, G Street Fabrics	
James H. Barnes	Security Officer, Metro Security Guard, Inc.	
	Security Officer Casey Management, Inc.	
Juanna Y. Barnett	Cashier, Hecht's	
James D. Barnette	Security Officer, Federal Realty Management	
Mark W. Barrick	File Clerk, Conroy, Ballman & Dameron	
Stanley F. Barsch	Travel Agent, S.A.T.O. Travel	
Glenda Bastian	Instructor, The Compuclub	

Leland A. Baughman	Security Guard, International Gem & Jewelry Show
Shirley Beachum	Customer Service, Laurel Center Mall
Suzanne Beam	Security Officer, Stoneridge Community
Bruce A. Beardsley	Security Officer, The Jaffe Group
Sultana Begum	Adjunct Professor, Montgomery College
David Berkheimer	Security Officer, Hebrew Academy of Greater Washington
Errol Birch	Security Officer, Grady Management
Marquetta E. Blackstone	Security Officer, Grady Management
Michael E. Bledsoe, Jr.	Security Officer, Grady Management
	Security officer, The Behnke Nurseries Co.
Laura K. Bohrer	Security Officer, Grady Management Co.
Melvin Bonomo	Driver, Dunbar Armored
John G. Bork	Security Officer, Community Associations
Randolph D. Bottenus	Security Officer, Stoneridge Home Owners Assoc.
Don Boyd	Carpenter, Maryland Fire & Rescue Institute
Griffin A. Boyd	Paraprofessional, Foley & Lardner
Lonnie D. Boykin	Security Officer, Grady Management
	Security Officer, Friendly Garden Apts.
Anne E. Brodsky	Instructor, Montgomery County Public Schools
Eric S. Brown	Counsellor, Boys & Girls Home of Maryland
Frank F. Brown	Security Officer, Manugistics
	Security Officer, Hebrew Academy of Greater Washington
	Security Officer, Federal Realty Investment Trust
Scott B. Brown	Security Officer, Kay Management
Steven W. Browne	Security Officer, Casey Management, Inc.
Douglas Browning	Clerk, BJ Liquors
William F. Budzenski	Security Officer, McDnald's Corp.
Charlie Bullock	Security Officer, G Street Fabrics
Susan Bunnell	Security Officer, G Street Fabrics
	Security Officer, Manugistics
Eric T. Bunting	Security Officer, Metro Security Guard, Inc.
Michael J. Burek	Cashier, Pike Wine & Liquor
Richard M. Burge	Security Officer, The Jaffe Group
Dan Burgess	Security Officer, Manugistics, Inc.
	Security Officer, The Progress Club
Michael P. Burgess	Security Officer, Charles E. Smith Realty
Lawrence W. Burke	Security Officer, Federal Realty Investment Trust
Eric M. Burnett	Security Officer, Syms
	Security Officer, Federal Realty
	Security Officer, Bethesda Marriott
	Security Officer, Darcars Motors Co.
Kevin L. Burns	Security Officer, Grady Management, Inc.

Ronald Butts	Security Officer, Fireside Condo.
	Security Officer , DARCARS Toyota
	Security Officer, Montgomery County Teachers Federal Credit Union
Beverly Byron	Sales Associate, Dress Barn
Stephanie L. Cahalen	Waitress, O'Donnells
Patrick F. Callahan, Jr.	Vice President/Security Director, Proactive Special Security
Michael B. Callan	Security Officer, Federal Realty Investment Trust
William J. Cammarata	Security Officer, Proactive Special Security Services
James M. Campbell	Security Officer, Lerner Corp.
Dorinda Carey	Security Officer, Federal Realty Investment Trust
	Security Officer, Manugistics, Inc.
Donald Carr	Security Officer, Halpine View Apts.
Jerome Carter	Security Officer, Fenguard Security, Inc.
Robert Carter	Security Officer, Montgomery Investigative Services
Roxanne Carter	Security Officer, G Street Fabrics
Karen A. Carvajal	Security Officer, Equity Management/Carroll Apts.
Luis f. Carvajal	Security Officer, The Behnke Nurseries Co.
	Security Officer, Equity Management
David J. Cary	Security Officer, Prentiss Properties
Dean A. Cates	Security Officer, Casey Management, Inc.
Alan Cawood	Security Officer, Grady Management, inc.
	Security Officer, The Jaffe Group
Annette Cheng	Teller, Sandy Spring National Bank
John M. Christ	Security Officer, Federal Realty Investment Trust
Thomas J. Cioffi	Security Officer, Syms
John P. Cissel	Security Officer, Syms
	Security Officer, Fenguard Security
Mary Beth Clagett	Security Officer, Federal Realty Investment Trust
Laura B. Clark	Sales Representative, Avon, Inc.
Peter Clark	Security Officer, Hebrew Academy of Greater Washington
Patricia J. Clay	Sales Consultant for Pinnacle Party Sales
R. Brock Reberg Cline	Emergency Room Technician, Suburban Hospital
Douglas Cobb	Security Officer, Burlington Coat Factory
	Security Officer, Chares E. Smith Realty
Susan E. Cohen	Secretary, Responsive Consulting Services
Donald R. Collins, Jr.	Security Officer, McDonald's Corp.
	Security Officer, T.A.C., Inc., t/a Frugal Fannies
Kirk Considine	Security Officer, Kay Management
Robert A. Cook, III	Security Officer, Fenguard Security

	Security Officer, Middlebrook Commons Condos.
Scott Cook	Fitness Trainer, Fitness World
Torrie Cook	Security Officer, Fenguard Security, Inc.
	Security Officer, Federal Realty Investment Trust
	Traffic Control Officer, Holton Arms School
Michael L. Couture	Shipping and Receiving Clerk, Nordstrom
Donnell Cowan	Security Officer, Southern Management Corp.
	Security Officer, JBG Properties
	Security Officer, Federal Realty Investment Trust
	Security Officer, Bethesda Marriott
	Security Officer, Montgomery County Teachers Credit Union
	Security Officer, Scotland Community Development
Jacques Cowan	Security Officer, Grand Hyatt Hotel of Washington
	Security Officer, Bell Flowers
	Security Officer, East Coast Security
Karen Crist	Waitress, Paolo's Ristorante
Sharon G. Crowe	Staff Nurse, Shady Grove Adventist Hospital
Kyle E. Crutchley	Medic, Williamsport Vol. Ambulance Service
Richard J. Cunningham	Security Officer, Grady Management
	Security Officer Federal Realty Investment Trust
Adam E. Currie	Security Officer, Grady Management
Michael Curry	Security Officer, Fenguard Security
	Security Officer, Proactive Sepcial Security Services
Thomas P. Curtis, Sr.	Security Officer, Casey Management, Inc.
John G. D'Albora	Security Officer, Federal Realty Investment Trust
	Security Officer, Casey Management, Inc.
Thomas D'Albora	Security Officer, Casey Management, Inc.
	Security Officer, Metro Security Guard, Inc.
William D'Albora	Security Officer, Federal Realty Investment Trust
James M. Daly	Owner/Operator, KH Trading Company
Edwin Daniel	Security Officer, Fenguard Security
	Security Officer, Grady Management
	Security Officer, Potomac Foods
	Security Officer, Montgomery County Teachers Federal Credit Union
	Security Officer, Hebrew Academy of Greater Washington
	Security Officer, J.C. Penney
Louvenna DaSilva	Security Officer, Federal Realty Investment Trust
Jody Davenport	Security Officer, Insignia Management Group, LP
Betsy L. Davis	Security Officer, Manugistics, Inc.

Steve Davis	Freelance Software Developer, Better Engineering
Laverne Dawkins	Sales Clerk, Hecht's
Steven E. DeCarlo	Security Officer, Federal Realty Investment Trust
	Security Officer, Good Counsel High School
Roger L. Defibaugh	Security Officer, Syms
	Security Officer, Lerner Corp.
	Security Officer, Montgomery Investigative Service Agency
David Delacruz	Security Officer, The Jaffe Group
	Security Officer, Metro Security Guard, Inc.
Miguel DelaCruz	Security Officer, The Jaffe Group
Betty M. Denne	Customer Representative, Actmedia
Shelley Derby	Home Visitor, HomeCall, Inc.
Michael J. Diggs	Security Officer, CSN Management Co.
Brian C. Dillman,	Security Officer, Grady Management
	Security Officer, JBG Properties
	Security Officer, The Behnke Nurseries Co.
	Security Officer, Casey Management, Inc.
Audrey C. Dillon	Vice President, Dynamite Security & Investigations
Patrick T. Dillon	Security Officer, The Home Depot
Juliana Dina	Cashier, Giant Food, Inc.
Thomas S. Dommel	Security Officer, Fenguard Security
	Security Officer, Park Inn International
Lorraine Dommel	Security Officer, Syms
	Security Officer, JBG Properties
	Security Officer, Manugistics, Inc.
Mary C. Doyle	Security Officer, Federal Realty Investment Trust
Charles L. Drengwitz	Security Officer, Friendly Garden Apts.
Stephanie Duke	Security Officer, The Behnke Nurseries Co.
Timothy S. Dumais	Security Officer, Syms
John P. Dunn	Therapist, Britt Rathbone
Robert F. Duvall, Jr.	Tow Truck Driver, Performance Towing
Raymond F. Ehlers	Security Officer, Grady Management, Inc.
Ari Elkin	Security Officer, Scotland Community Development, Inc.
Laurie Ellard	Security Officer, Metro Security Guard, Inc.
Karen Ellis	Psychiatric Consultant, Baltimore City Health Dept.
Kristina Ellis	Aerobics Instructor, Fitness World
Ibiso T. Erekosima	Teller, Chevy Chase Bank
Bruce C. Evans	Security Officer, Fenguard Security
James A. Fenner, Jr.	Owner/Security Officer, Fenguard Security, Inc.
Claude T. Ferebee, III	Security Officer, Chambers Management/Paint Branch Condo.
Wayne E. Ferrell	Chaperone, Gaithersburg High School
Sherri L. Fink	Security Officer, for McDonald' s Corporation
Thomas P. Flood	Security Officer, Federal Realty Investment Trust
Karen Flowers	Health Room Technician, Health & Human Services

Susan Folley	Security Officer, Stoneridge Home Owners Assoc.
	Security Officer, Fenguard Security
	Traffic Coordinator, Islamic Center of Maryland
Frank G. Fones, Jr.	Security Officer, Indian Spring Country Club
Brian P. Ford	Security Officer, Fenguard Security
Darren E. Francke	Security Officer, Grady Management, Inc.
	Security Officer, Computer City
Eric Francois	Pest Control Technician, Owl Pest Prevention
Marc E. Frazier	Security Officer, Grady Management
	Security Officer, Montgomery County Teachers Credit Union
	Security Officer, BBM Silver Spring, t/a Bailey's Café & Grill
John B. Freeburger	Alarm Installation, Electra-Gard, Inc.
Donald Freitag	Security Officer, International Gem & Jewelry Show
Sean T. Gagen	Security Officer, Fenguard Security
	Security Officer, Syms
	Security Officer, Middlebrook Commons Condominiums
	Security Officer, Casey Management, Inc.
Victor C. Galladora	Owner/Instructor, ABC's of CPR
Christopher Garland	Security Officer, Burlington Coat Factory
	Security Officer, Charles E. Smith Realty Co.
	Security Officer, Equity Management/Carroll Apts.
	Security Officer, The Behnke Nurseries Co.
Judson P. Garrett	Member, American Speech-Language Hearing Assoc.
James R. Geary	Security Officer, Lerner Corp.
Josh Geline	Security Officer, Federal Realty Investment Trust
Anthony T. Giovacchini	Security Officer, Federal Realty Investment Trust
Terry J. Gloster	Security Officer, Kamran Hanif
	Parking Lot Attendant, Jaseria Islamic Center
	Security Officer, STF Productions, Inc.
	Security Officer, Fireside Condo
	Driver, Mr. John Darvish
	Security/Chaperone, Gaithersburg High School
	Traffic Coordinator, Green Acres School
Michael K. Godwin	Produce Clerk, Safeway
Amando P. Gomes	Cashier, MG Beer, Wine & Grocery
Richard Grapes	Security Officer, Metro Security Guard, Inc.
Duane S. Gray	Security Officer, Casey Management, Inc.
Eugene A. Gray, Jr.	Security Officer, Insignia Residential Group
Carl Greer	Security Officer, Casey Management, Inc.
Percell Gregory	Security Officer, Scotland Community Development
	Security Officer, Southern Management Corp.
	Security Officer, CSN Management
	Traffic Officer, Islamic Center of Maryland
Michael Grierson	Inspector, City of Rockville

Jose A. Guzman	Security Officer, Grady Management
Peter Hageman	Appeals Coordinator, MAMSI Health Plans
Jonathan M. Hamburg	Security Officer, Lerner Corp.
Russell E. Hamill, III	Security Officer, Montgomery Investigative Services
Janet M. Hamill	Counsellor, Self-employed
Raymond L. Hanson	Security Officer, Federal Realty Investment Trust
David C. Hardy	Security Officer, International Gem & Jewelry Show
Eric J. Harrell	Security Officer, Kay Management
Elizabeth J. Hattenburg	Security Officer, Stoneridge Home Owners Assoc.
	Security Officer, Stoneridge Community
Mark Hayden	Security Officer, Stoneridge Community
	Security Officer, Stoneridge Home Owners Assoc.
	Security Officer, Federal Realty Investment Trust
	Security Officer, Montgomery County Teachers Federal Credit Union
Robin Hayden	Security Officer, Stoneridge Home Owners Assoc.
Jonathan T. Heiderich	Security Officer, G Street Fabrics
Fred D. Helton	Security Officer, Lerner Corp.
James S. Helton	Security Officer, Indian Spring Country Club
Diane Henderson	Security Officer, Sportland
	Security Officer, Rockville Skating Center
	Security Officer, Cell Page Car Trenz
Daniel E. Hendrick	Security Officer, TAC, Inc., t/a Frugal Fannie
Charles Heurich	Promo Team Member, Frederick Brewing Co.
Robert Heverly	Security Officer, The Behnke Nurseries Co.
	Security Officer, Grady Management
Kenneth F. Heywood	Security Officer, Citizens Bank
John K. Higdon	Security Officer, The Shrine of St. Jude
David E. Hill	Security Officer, Fenguard Security
Mark Hinton	Owner/Operator, Hinton Electric Service, Inc.
Steven L. Hobson	Paramedic, Chambersburg Area Advanced Life Support
Brian Holloway	Security Officer, Lerner Corp.
Jeffrey K. Holmes	Security Officer, TAC, Inc., t/a Frugal Fannies
Kenneth M. Holt	Consultant, Booz, Allen & Hamilton, Inc.
Gary W. Hopkins	Security Officer, Federal Realty Investment Trust
Rodney Hopkins	Security Officer, Syms
Ian J. Iacoviello	Security Officer, Federal Realty Investment Trust
Gary G. Irwin	Counselor, Montgomery County Health & Human Services
Christopher J. Ivey	Security Officer, Montgomery Investigative Service
Edwin O. Jacob	Security Officer, Darcars Motors
Edwin O. Jacob	Security Officer, Montgomery County Teachers Federal Credit Union
Mark Janney	Security Officer, Casey Management, Inc.
Marlynne D. Jefferson	Independent Associate, Pre-Paid Legal Services, Inc.
Timothy N. Jenifer	Bus Driver, New World Tours
Wayne M. Jerman	Instructor, Self-employed (NO CLIENTS IN MONT. CO.)

John R. Jesuitas	Security Officer, Syms
John R. Jesuitas	Security Officer, Hebrew Academy of Greater Washington
Allen Johnson	Security Officer, Halpine View Apts.
	Security Officer, Fenguard Security
Charles L. Johnson	Sound Engineer, Self-employed
Christopher S. Johnson	Security Officer, Syms
	Security Officer, Hebrew Academy of Greater Washington
	Security Officer, Syms
Kimberly A. Jones	Security Officer, Rockville Skating Center
	Security Officer, Cell Page Car Trenz
Laurie A. Jones	Security Officer, Manugistics, Inc.
Porsha Jones	Security Officer, Fenguard Security, Inc.
	Security Officer, Manugistics, Inc.
Valentino Jones	Security Officer, Fireside Condo
	Security Officer, Atlantic Security Professionals
Charles T. Jordan	Security Officer, Lerner Corp.
Denise D. Jordan	Contract Consultant, Performance Technology Work Group, Inc.
Linnett Jordan	Serviceman, East Coast Distributors, Inc.
Mark L. Julian	Security Officer, Metro Security Guard, Inc.
	Security Officer, Syms
Francine R.C. Kaplan	Computer Trainer/Consultant, CCSS
Benjamin T. Kaufman	Musician, Four Star Entertainment
Brent A. Kearney	Security Officer, Columbia Towers Condo., Inc.
Robert L. Kearney	Parking Lot Attendant, Jaseria Islamic Center
	Security Officer, Fireside Condo
	Chaperone, Gaithersburg High School
Jason G. Keith	Security Officer, Grady Management, Inc.
	Security Officer, Casey Management, Inc.
Katie L. Kelley	Security Officer, Kay Management
Matthew Kelly	Police Services Aide, City of Gaithersburg Police Dept.
Thomas M. Kelly	Security Officer, Manugistics, Inc.
	Security Officer, Federal Realty Investment Trust
John Kennedy	Security Officer, Casey Management, Inc.
Teresa A. Kennedy	Data Entry, Scott Volvo Specialties
Allan W. Kerr	Security Officer, Federal Realty Investment Trust
	Security Officer, Beth Sholom Congregation
	Security Officer, Talmud Torah
Richard S. Kessler	Security Officer, Good Counsel High School
Brian G. Kim	Adjunct Professor, University of Baltimore Law School
	ESOL Instructor, Montgomery County Public Schools
John A. King	Security Officer, West Group, Inc.
Stephen T. King	Security Officer, Syms
John V. Kinsley	CPR Instructor Life Safety Concepts, Inc.
Barbara Kloc	Artist, Self-Employed
	Teacher, Kalico Arts
William E. Knowlden	Security Officer, Lerner Corp.

Mark T. Kopp	Security Officer, Stoneridge Home Owners Assoc.
	Security Officer, Stoneridge Community
Demitri C. Kornegay	Author and President, Nero's Publishing Co.
	Author and Motivational Speaker, Nero's Publishing Co.
Amy F. Korsen	Security Officer, Indian Spring Country Club
Richard L. Kruhm	Security Officer, Walter Johnson High School
John M. Kuster	Security Officer, Indian Spring Country Club
Robert D. Ladany	Security Officer, Montgomery County Teachers Federal Credit Union
James W. Lanham	Security Officer, Grady Management
	Security Officer, CSN Management Co.
Ivan Lankford	Security Officer, Montgomery County Teachers Federal Credit Union
	Security Officer, Bell Flowers
	Security Officer, National Electrical Benefit Fund
	Security Officer, AMF Shady Grove Lanes
	Security Officer, Atlantic Security Professionals
	Security Officer, Darcars
	Security Officer, J.C. Penny
Maritza Lau	Sales Associate, Sears Roebuck
Mark C. Lazarus	Security Officer, Sportland of America
Gil Jong Lee	Security Officer, The Jaffe Group
Mark J. Lee	Security Officer, Community Association, Inc.
William T. Lee	Security Officer, Atlantic Security Professionals
Robert Lehman	Security Officer, McDonald's Corp.
Jeffrey Levine	Driver, ARC Ice Skating Arena
Dorenda A. Lewis	Counselor, Edgemeade
Geoffrey A. Lewis	Paramedic, Children's National Medical Center
Mark Lewis	Security Officer, Syms
Karen A. Lievano-Carvajal	Security Officer, The Behnke Nurseries Co.
	Security Officer, Moore & Associates
Jill b. Lipson	Proofreader, Prospect Associates, Ltd.
Emily Londos	Research Protocol, NIH, Institutional Review Board
Charles A. Loudermilk	Security Officer, The Progress Club
	Security Officer, Federal Realty
Michael Lowe	Adjunct Faculty Member, Catonsville Community College
Robert D. Lumsden, Jr.	Security Officer, The Behnke Nurseries Co.
Robert D. Lumsden, Sr.	Security Officer, Federal Realty Investment Trust
John B. Lyon, Jr.	Security Officer, Grady Management
Chery Mack	Bakery Clerk, Shoppers Food Warehouse
T. James Maher	Security Officer, Stoneridge Home Owners Assoc.
Christopher A. Mallari	Paramedic, Underwood Memorial Hosp.
Peter R. Manoogian	Security Officer , Federal Realty Investment Trust
Charles I. Marcus	Security Officer, Metro Security Guard
Darryl Marshall	Security Officer, Federal Realty Investment Trust
Kevin I. Marston	Security Officer, Park Inn International

Fernando J. Martinez	Traffic Coordinator, Muslim Community Center
	Security Officer, Park Inn International
Eric A. Mason	Security Officer, Grady Management
M. Mastrangelo	Security Officer, Montgomery Investigative Services
Dana A. Matthis	Security Officer, Federal Realty
Frank W. Mcatee, Iv	Security Officer, Peppertree Farm Apts.
	Security Officer, Federal Realty Investment Trust
Sonya McCallum	Security Officer, Fenguard Security, Inc.
	Security Officer, Metro Security Guard, Inc.
Michelle McClellan	Waitress, Blue Ox Café
Robert McCullagh	Security Officer, STF Productions
	Expert Witness, McCarthy, Bacon & Costello
	Security Officer, St. Andrew's Episcopal School
	Security Officer, Severn Savings Bank
	Security Officer, AVENEL
John P. McGaha	Security Officer, Syms
	Security Officer, Casey Management, Inc.
C. Daniel McGrew	Adjunct Professor, Columbia Union College
Traci McKenzie	Security Officer, Montgomery Investigative Services
Lisa McLinden	Therapist, Family Services Agency, Inc.
Donald McNamee	Counselor, Jermany & Associates
Patrick J. McNerney	Security Officer, Shrine of St. Judes
Rudolph g. McPherson	Sales Associate, Sears & Roebuck
William P. Mcquiggan	Computer Consultant, Global Environment & Technology Foundation
Guy R. Meader	Security Officer, Syms
Ruben Medina	Customer Service Representative, Cable TV Montgomery
Jamie A. Medlin	Security Officer, Federal Realty Investment Trust
	Security Officer, CSN Management Co.
Alanna M. Mellott	Security Officer, Syms
Troy D. Melott	Security Officer, Federal Realty Investment Trust
Brandon Mengedoht	Security Officer, Fenguard Security
Jodi M. Merritt	Dispatcher, Chevy Chase Village Police Dept.
	Instructor, City of Gaithersburg, Police Dept.
Jeffrey L. Metz, Jr.	Paramedic, Williamsport Ambulance Service
Lois R. Meyers	Consultant, Baltimore City Health Dept.
Craig Mickel	Self-employed, Instructor for Cumberland Valley Health & Safety
Steven Miles	Emergency Room Technician, Montgomery General Hosp.
Dorothy A. Miller	Nurse Practitioner, Anthony Hsaio, M.D.
Mark C. Miller	Personal Trainer, Wheaton Athletic Club
Martha Miller	Security Officer, Lerner Corp.
Richard B. Mills	Security Officer, Fenguard Security, Inc.
Roslyn E. Mills	Security Officer, Grady Management
	Security Officer, Darcars Motors
Cristian A. Miranda	Security Officer, G Street Fabrics
Roddy Monaghan	Independent Contractor, Primerca

Luigi Mondini	Security Officer, Park Montgomery Apts.
	Security Officer, Rockville Roller Skating Center
William Montgomery	Security Officer, Proactive Special Security Services
Dorothy Moore	Consultant, Family Advocacy Network
Farris L. Moore	Security Officer, Toys R Us
	Security Officer, G Street Fabrics
	Security Officer, Lerner Corp.
Brian K. Moreau	Paramedic, Rural Metro Mid-Atlantic
John Moriarty	Security Officer, Insignia Residential Group
Robert Moser	Security Officer, International Gem & Jewelry Show
Tony Mumford	Bus Driver, Montgomery County Public Schools
Tod M. Muollo	Security Officer, Lerner Corp.
Kenneth C. Musgrave	Security Officer, The Behnke Nurseries Co.
	Security Officer, Federal Realty Investment Trust
David T. Najafi	Security Officer, Fenguard Security
	Security Officer, Federal Realty Investment Trust
	Security Officer, Proactive Special Security Services
	Security Officer, Montgomery Investigative, Inc.
Nebiyat Natnael	Waitress, Hotel Washington
Mark Nauman	Self-employed, Private Home Inspector
Robert A. Nichols	Security Officer, Montgomery Investigative Services
	Security Officer, Fenguard Security
Joseph C. Niebauer	Photographer, Self-employed
Mary E. Nolan	Receptionist, Dr. Linda Harris
Gila Nordman	Therapist, Self-employed
Michelle Nunn	Clinical Nurse, Adventist Home Health
Jacob E. Oliver	Security Officer, Bethesda Marriott
Joseph Oliverio	Security Officer, Lerner Corp.
Joseph J. Onderko, jr.	Security Officer, Federal Realty Investment Trust
	Security Officer, Lerner Corp.
	Security Officer, Montgomery Investigative Services
Oneil H. Ormsby	Security Officer, Fenguard Security, Inc.
	Security Officer, Fire Side Condo
Glenn Paige	Sales Associate, Hecht's
Sunil Pandya	Consultant, Apex Corporation
John Panetti	Security Officer, Proactive Special Security Services
Kevin M. Parker	Security Officer, Proactive Special Security Services
Michael A. Parker	Security Officer, Syms
	Security Officer, Grady Management
	Security Officer, Federal Realty
Janis P. Parlon	Security Officer, Manugistics, Inc.
Michael J. Parlon	Security Officer, Manugistics, Inc.
Dinesh R. Patil	Security Officer, Federal Realty
Charles F. Patullo	Owner/Safety Trainer, Safety-Net Management Co.
William C. Pechnik	Security Officer, McDonald's of Olney
Thomas A. Pecoraro	Security Officer, Houston's Restaurants, inc.

Terese Pekin-Guilday	Security Officer, Scotland Community Development, Inc.
Gerald R. Pendry, jr.	Security Officer, Federal Realty Investment Trust
	Security Officer, Grady Management Co.
Ralph Penn, Jr.	Security Officer, Grady Management
Kenneth Penrod	Security Officer, Chi Centers, Inc.
	Security Officer, Middlebrook Commons Condos
Frank E. Peppel	Truck Driver, EU Services
Francis Person	PC Repair Technician, Comp USA
Chester C. Phillips	Traffic Control Coordinator, Holton-Arms School
Lawrence Phillips	Flight Instructor, Montgomery Aviation, Ltd.
Jeanne Pickering-Brewer	Promotion Assistant, Donna Gulick, Med
Orpheus Pierce	Security Officer, Montgomery Investigative & Security Services
Lawrence W. Plant	Security Officer, Scotland Community Development, Inc.
	Security Officer, Prentiss Properties
Kirsten S. Poole	Sales Associate, Northern Reflections
Darren M. Popkin	Clerk, Capital Phones
Michael S. Prather	Security Officer, Grady Management
	Security Officer, Darcars Toyota
	Security Officer, Shady Grove Lanes
	Security Officer, Montgomery County Teachers Federal Credit Union
William D. Preis	Security Officer, Manugistics, Inc.
James C. Price	Security Officer, Federal Realty
Joseph R. Price	Consultant/Trainer, Self-employed
Glenda Queen	Police Services Aide, City of Gaithersburg Police Dept.
Diane A. Queen	Security Officer, Walter Johnson High School
	Security Officer, Scotland Community Development, Inc.
	Security Officer, Prentiss Properties
Jeff Rachel	Security Officer, L*N Legum Norman, inc.
	Security Officer, Paint Branch Park Condo Assoc.
Hillel Raskas	Night Auditor, Holiday Inn of Bethesda
Dominic A. Raysick	Security Officer, Insignia Residential Group
	Security Officer, Federal Realty Investment Trust
	Security Officer, Montgomery Investigative Services
	Security Officer, Augusta Properties
	Security Officer, Equity Management
Rita S. Reames	Bartender, Smokey Glen Farm
	Private Investigator, Self-Employed
Michael Reilly	Security Officer, Montgomery Investigative Services
Sean P. Renauer	Security Officer, Scotland Community Development
	Traffic Coordinator, Islamic Center of Maryland
David T. Rice	Security Officer, Metro Security Guard, Inc.
Robert Rice	Realtor, Long & Foster
Allen E. Ricketts	Security Officer, Metro Security Guard, Inc.
Neal Ridgeway	Security Officer, Fenguard Security
	Security Officer, Proactive Special Security Services, Inc.

	Security Officer, Middlebrook Commons Condominiums
Elbert L. Riley	Salesman, Potomac Trading Collectibles
Fernando X. Rios	Security Officer, Charles E. Smith Realty
	Security Officer, Equity Management, inc.
Kirk risinger	Website Design, Long Beach Design
Daymieon Rivera	Security Officer, Lakeforest Associates
Darryl L. Robb	Paramedic, Silver Spring Ambulance Service
Barry G. Robinson	Security Officer, Casey Management, Inc.
James T. Robinson	Security Officer, Casey Management, Inc.
Patrick D. Robinson	Security Officer, Lerner Corp.
	Security Officer, Caribbean Cultural Studio
Elena Rochman	Security Officer, Metro Security Guard, Inc.
Alan G. Rodbell	Secretary & Treasurer, At Your Command
Angel Rosado	School Security Alarm Monitor, Montgomery County Public Schools
Craig M. Rosia	Security Officer, Federal Realty Investment Trust
	Security Officer, Equity Management
	Security Officer, The Behnke Nurseries Co.
James D. Ross	Security Officer, Metro Security Guard, Inc.
Douglas E. Rupp	Security Officer, Federal Realty Investment Trust
Lynn A. Russell	Police Service Aide, Gaithersburg City Police Dept.
Michael T. Ryan	Security Officer, Federal Realty Investment Trust
Pamela A. Ryan	Sales Associate, Michaels Arts & Crafts
Odile Saddi	Deli Clerk, Safeway Store
John F. Salb	Security Officer, Prentiss Properties
	Security Officer, CSN Management Co.
Lourdes G. Sanchez	Estate Sales, ELE Estate Sales
Raymond R. Sanchez	Account Executive, First Guaranty Mortgage
Jocelyn S. Santos	Medical Technologist, Quest Diagnostics
Robert Sauerhoff	Desk Clerk, YMCA
Maynard F. Saunders	Technician, Service Master
John R. Sauriol	Traffic Control, Beth Shalom Congregation
Thomas A. Scafide	Security Officer, Lerner Corp.
	Security Officer, Federal Realty Investment Trust
	Security Officer, Scotland Community Development, Inc.
Ira Schoem	Security Officer, Scotland Community Development, Inc.
Donald C. Schubert	Security Officer, Abaris Realty
	Security Officer, Federal Realty Investment Trust
Sarit Scott	Security Officer, The Jaffe Group
Eric M. Seleznow	Consultant/Trainer, US Dept. of Justice/National Institute of Corrections
Haifa A. Shaban, M.D.	Clinical Instructor, George Washington University
Thomas C. Shapiro, Jr.	Security Officer, Casey Management, Inc.
John M. Shaw	Security Officer, Fenguard Security
Otha P. Shaw	Cashier, Hickory Ridge Mobil
Mark Sheelor	Security Officer, Judy's Hallmark

	Security Officer, Syms
	Security Officer, Managistics, Inc.
Ricardo E. Shepherd	Equal Rights Officer, Federal Emergency Management Agency (FEMA)
Cynthia L. Sigworth	Security Officer/Licensee, On Track Investigative Services
	Traffic Control, Holton Arms Schools
Peter B. Silvain, Jr.	Professor, Columbia Union College
Steven Silverman	Consultant, Silverman & Schild
Allelign Sisay	Contractor, Baltimore City Health Dept.
Kenrick Skerritt	Meter Collections, World Wide, Inc.
Tray Smallwood	Security Officer, Montgomery Investigators
Nathaniel M. Smith	Security Officer, Grady Management
Bounkong Soumphomphakdy	Clerical, Assistant, Sears
Timothy M. Spelman	Security Officer, Grady Management
Roger St. Louis	Security Officer, Caribbean Cultural Studio
Thomas G. Stack	Security Officer, Wheaton Plaza
Jo Carol Stallworth	Freelance Book Reviewer, Publisher's Weekly
Eric M. Stancliff	Security Officer, Syms
Michael Stanislav	Security Officer, Casey Management, Inc.
	Security Officer, Metro Security
Paul R. Starks	Custodian, Topaz House Apartments
Loretta M. Staten	Security Officer, Managistics, Inc.
George D. Stephens	Security Officer, Grady Management
Paul H. Sterling	Traffic Coordinator, Muslim Community Center
Alan E. Stevens	Security Officer, Stoneridge Home Owners Assoc.
	Security Officer, Middlebrook Common Condo, Inc.
	Security Officer, Stoneridge Community
Ann Stillman	Office Assistant, Allstate Insurance
Gary X. Stokes	Security Officer, G Street Fabrics
Frank W. Stone	Security Officer, Metro Security Guard, Inc.
	Security Officer, Casey Management, Inc.
M. Kevin Stone	Security Officer, Eisinger Real Estate
Robert E. Straugn	Security Officer, Grady Management
	Security Officer, Insignia Residential Group
David L. Stultz	Security Officer, Patrol Security & Investigations
	Security Officer, Charles E. Smith Realty Cos.
Scott B. Sube	Audio/Video Installation, Sub-contractor
Michael Subin	**Law Clerk, Stanton Gildenhorn (See attached letter)**
Sheila C. Sugrue	Security Officer, Federal Realty
Karen J. C. Sullivan	Unit Leader, Girl Scout Council of Nation's Capital
	Psychotherapist, Self-employed
	Facilitator/Home Visitor, The Family Works
William P. Sullivan	Vending Machine Operator, Sully's Snack & Beverage
Marisha C. Tapera	Staff Writer/Editorial Consultant, Educational Funding Co.

Spiro Tatakis	Assistant Manager, Old Georgetown Grille
	Security Officer, Good Counsel High School
Sean Thielke	Security Officer, Peppertree Farm Apts.
David M. Thomas	Security Officer, International Gem & Jewelry Show
Marvin E. Thomas	Security Officer, Fenguard Security, Inc.
	Security Officer, Marriott
	Security Officer, Hebrew Academy of Greater Washington
Filomena M. Thompson	Auto Parts Salesperson, Self-employed
Margaret Thompson	Pet Sitter, Pet Friends, Inc.
Thomas Thompson	Security Officer, Fenguard Security
	Security Officer, Insignia Residential Group
	Security Officer, Montgomery County Teachers Federal Credit Union
Monique Tompkins	Security Officer, Grady Management
	Security Officer, Wheaton Plaza
Douglas A. Tressler	Security Officer, Metro Security Guard, Inc.
Connie Tuisku	Reference Librarian, George Mason University
Brian Tupa	Football Player, Washington Chiefs
William M. Usilton	Realtor, Long & Foster Realtors
Robert Utter	Security Officer, Fenguard Security
	Security Officer, The Behnke Nurseries Co.
Aleven Uy	Security Officer, The Jaffe Group
Victor Valerio	Security Officer, Oak Ridge Apartments
	Security Officer, Equity Management, Inc.
	Security Officer, Montgomery Investigative Services
	Security Officer, Grady Management
Marc H. Verde	Security Officer, Lerner Corp.
Barbara J. Waldecker	Sales Associate, Kay Jewelers
	Delivery Person, Bethesda Florist
	Security Officer, Federal Realty Investment Trust
Brian K. Walker	Security Officer, Fenguard Security, Inc.
	Security Officer, CBS Radio/WPGC
	Security Officer, Fireside Condo
Michael R. Ward	Security Officer, Syms
Michael J. Watts	Bus Operator, Montgomery County Public Schools
	Security Officer, The Academy of The Holy Cross
	Security Officer, Federal Realty Investment Trust
James P. Weaver	Landscaper, Self-employed
Ron Weinreich	Consultant, Montgomery General Hospital
Aaron Weitzman	Home Repairer, Spring Valley Handyman Service
Wanda Wells	**Typist, Law Office of Thomas B. Stone, Jr. (Condition: she must not participate in matters involving th County Attorney's Office)**
Chuck Welter	Security Officer, Metro Security Guard, Inc.
Dawn M. Wenner	Security Officer, Montgomery Investigative & Security Services

	Security Officer, Middlebrook Commons Condominiums, Inc.
	Security Officer, Fenguard Security, Inc.
Frank L. Wesley	Chaperone, Jewish Community Center of Greater Washington
	Security Officer, Federal Realty Investment Trust
	Security Officer, Scotland Community Development, Inc.
	Security Officer, Fenguard Security
	Traffic Coordinator, Islamic Center of Maryland
William H. Whalen	Security Officer, MJ Designs
	Security Officer, Montgomery County Public Schools
Randy M. Wheeler	Professor, Montgomery College
Floyd L. White	Security Officer, JBG Properties
	Security Officer, Federal Realty Investment Trust
Mark A. White	Security Officer, Grady Management
	Security Officer, Lerner Corp.
	Security Officer, Montgomery Investigative Services
Sonia Y. Wiggins	Security Officer, Federal Realty Investment Trust
Lori A. Wilbur	Security Officer, Federal Realty Investment Trust
Anita G. Wilkinson	Security Officer, Grady Management
Johanna Willems	Customer Service Aide, Marlo Furniture
	Pet Sitter, Tender Loving Cat Care
Larry Wilson	Substance Abuse Counsellor, Self-employed
Wayne J. Wiltshire	Security Officer, Fenguard Security, Inc.
Gregory M. Wise	Security Officer, MJ Designs
	Security Officer, Casey Management, Inc.
John H. Wise	Security Officer, Paint Branch Park Condo Assoc.
Maurice Witt	Instructor, Life Safety Concepts, Inc.
Craig L. Wittenberger	Expert Witness, Moldawer & Marshall, PC
Eric L. Wod	Security Officer, Grady Management, Inc.
Scott G. Wyne	Security Officer, Lerner Corporation
Mark W. yaniga	Security Officer, Federal Realty
Laura A. yates	Security Officer, Grady Management
Tae Yi	Security Officer, Lerner Corp.
Joanne Zacharias	Research Dietician, U.S. Dept. of Agriculture
Helen A. Zane	Security Officer, G Street Fabrics
	Security Officer, JBG Properties
	Security Officer, Manugistics, Inc.

November 11, 1997

The Honorable Michael L. Subin, Member
Montgomery County Council
61 Midline Court
Gaithersburg, MD 20878

Dear Councilman Subin:

The Montgomery County Ethics Commission (the "Commission") has received your October 3, 1997, request for approval of your outside employment with the law firm of Stanton J. Gildenhorn, Esquire. Your request states that you will be a law clerk and will perform legal research, prepare memos and other documents, and communicate with clients. You have represented that you "will not participate in any litigation against Montgomery County or any agency reporting to the County."

As you know, the Montgomery County Public Ethics Law prohibits a public employee, including a member of the County Council, from engaging in any other employment ("outside employment") unless the other employment is approved by the Commission. §19A-12(a)(1).[1] If the Commission, in its discretion, approves a request for outside employment, it is authorized to impose conditions on its approval. *Id.* However, notwithstanding the Commission's approval of outside employment, a public employee must not participate as a public employee in any matter if he or she knows or reasonably should know that a party to the matter is a business in which the public employee has an economic interest as an outside employee. §19A-11(a)(2)(a).

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1 For the purposes of this prohibition, public employee includes a member of the County Council and employment means engaging in an activity for compensation. See §19A-4(m)(1);19A-4(g).

Based upon the provisions in the Ethics Law and the information that you have provided, the Commission hereby approves your employment by the law firm of Stanton J. Gildenhorn, Esquire, in the capacity stated in your October 3, 1997 request. However, the Commission's approval is subject to the attached general Supplemental Conditions and the following special conditions.

1. You may not participate, as an outside employee, in any matter (litigation, lobbying, counseling or other representation) involving:

   (a) Montgomery County, Maryland;

   (b) an officer, employee or unit of Montgomery County, Maryland; or

   (c) any other public officer, employee, agent or agency funded, in whole or in part, by Montgomery County, Maryland.

2. You must require your outside employer to implement appropriate administrative "walls" that effectively insulate you from participation in such matters;

3. Except as provided in §19A-11(b)(1), [2] you may not participate as a county employee in any matter that affects the law firm of Stanton J. Gildenhorn, Esquire, either directly as a business entity or indirectly in its representation of a client, unless you apply for and receive a waiver from the Commission with respect to the particular matter; and

4. You must continue to comply with all other applicable provisions of the Ethics Law, including, by way of example but not limita-tion, the provision prohibiting use of the prestige of your office for private gain or the gain of another (§19A-14) and the provision prohibiting the disclosure of confidential information (§19A-15).

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§19A-11(b)(1) permits a disqualified public employee to act "[i]f a disqualification under subsection (a) leaves less than a quorum capable of acting, or if the disqualified public employee is required by law to act or is the only person authorized to act, and the disqualified public employee ... discloses the nature and circumstances of the conflict."

This approval does not constitute a waiver for the purposes of §19A-11(a)(2)(a) or for any other purpose.

Please feel free to contact the Commission if you have any questions regarding this matter.

Very truly yours,

Laurie B. Horvitz, Chair

September 11, 1998

Honorable Michael L. Subin
Montgomery County Council
100 Maryland Ave. 5th Floor
Rockville, MD 20850

Dear Councilman Subin:

The Ethics Commission has carefully considered your request for reconsideration of the Commission's May 18, 1998 decision that, as a condition of the Commission's approval of your outside employment, you must recuse yourself in every matter before the County Council in which either the law firm that is the landlord of your private employer or any of that firm's attorneys (the "landlord counsel") is involved.

Based on your representations that: (i) significant administrative walls have been built to insulate you from any discussion or participation in the office relating to any matter which might be before the Council or would be of potential conflict; (ii) you have agreed not to discuss with "landlord counsel" anything that could be a conflict of interest; (iii) you and "landlord counsel" have agreed to discuss public matters "only in a place of public nature" and not in the office; (iv) you have "limited any possible contact with subject counsel by holding any meeting possible with clients in [your] home or on the phone rather than in the office"; and (v) your presence in the place of your private employment will be limited to your employer's office or conference room, the Commission voted on September 8, 1998 to grant your request, and rescinded the general requirement that you recuse yourself on every matter before the County Council in which the landlord law firm or one of its attorneys is involved.

Very truly yours,

Kenneth C. Jackson, Sr.
Chairman

ETHICS COMMISSION

7/30/98

Ms. Wanda Wells
Office of Intergovernmental Relations
101 Monroe St., 4th Floor
Rockville, MD 20850

Dear Ms. Wells:

The Montgomery County Ethics Commission has received and reviewed your request for outside employment approval.

Upon consideration of the information provided in your application and recommendation of your department, the Commission approves your request to work as a typist for the Law Office of Thomas B. Stone Jr.

Your outside employment is subject to the stipulations enclosed with this letter and those of your department as well as the rules and regulations which apply to all outside employment activities. You are further advised that you must not participate in any matters for Mr. Stone that involve your County department. Please review them carefully and contact the Ethics Commission if you have any questions.

Very truly yours,

Barbara M. McNally
Executive Secretary

BMM/jlw

Enclosures

cc: Ben Bialek

100 Maryland Avenue, Room 204
Rockville, Maryland 20850
301/217-2341

APPENDIX D

LOBBYISTS

The lobbyists registered in 1998 and the employers they represented are:

Lobbyist	Employer
Stanley D. Abrams Abrams, West & Storm	Barbara Butz Bell Atlantic Mobile Systems, Inc. Harvey B. Maisel & Anell Assoc. Ltd. Partnership Chesapeake & Potomac Telephone of Maryland, Inc. Lot 40 Limited Partnership
Lesa N. Hoover Apartment & Office Building Assoc.	Apartment & Office Building Assoc.
Neal Fitzpatrick Audubon Naturalist Society	Audubon Naturalist Society
Suzanne E. Charleston	Associated Builders & Contractors of Metro Washington
Robert Faul-Zeitler Citizens for Sensible Development, Inc.	Citizens for Sensible Development, Inc.
Nancy M. Floreen	Bogdan Builders, Inc. Oakton Associates, Inc.
Devin J. Doolan, Esq. Furey, Doolan & Abell, LLP	Starpower Communications Westfield Corporation, Inc.
Steven A. Robins Hogan & Hartson	Glenmont Business Alliance Glenmont Metrocentre Apartments, c/o Naum & Greg Eisenstadt May Department Stores Company
Norman Knopf Knopf & Brown	Bonifant Limited Partnership Business Publishers, Inc. Citizens for Responsible Economic Development Norman Latker Pershing Drive Limited Partnership
Cindy Bar Lerch, Early & Brewer, Chtd.	Hines Interests Ltd. Partnership
Joseph P. Blocher Linowes & Blocher	Willard Marlow

Todd D. Brown Linowes & Blocher	24 West, Inc.
C. Robert Dalrymple Linowes & Blocher	Alvin I. Brown Chevy Chase Land Co.
John J. Delaney Linowes & Blocher	Harry W. Leet, et al. Host Marriott Corporation Pizza Hut of Washington
Stephen P. Elmendorf Linowes & Blocher	The Chelsea School Fred Philpitt & Edward Philpitt Lou Milne
Elizabeth M. Hosford, Esq. Linowes & Blocher	Southern Asia Adventist Association
Stephen Z. Kaufman Linowes & Blocher	Carl M. Freeman Associates, Inc. Evered Bardon USA G & C Properties, Inc. GFS Realty, Inc. Hampshire Greens Jane Aitcheson Cartwright Mr. & Mrs. Rubin Danshes Northwest Investment Corp./St. Andrew Kim Catholic Church Riggs National Bank Robert P. Hillerson Sami Totah, Arcola Investment Associates Sumner Development Company West Germantown Development District Ass West Germantown Limited Partnership
Robert H. Metz Linowes & Blocher	BETA Corporation COMSAT Corporation Germantown Town Center, LLC Senior Campus Living South Charles Realty Corp.
Barbara A. Sears Linowes & Blocher	Clarksburg Gateway Venture Creamore Germantown Associates Gateway Germantown Limited Partnership Greenberg Realty Company Harry H. Semmes, Jr. Johns Hopkins University, Office of Real Est

	King Farm Associates, LLC
	KSI Services, Inc.
	Mrs. Stuart G. Tipton
	Natelli Communities
	Paul London
	Spaulding & Slye
Edward Donohue Margolius, Mallios, David, Rider & Tomar, LLP	E.Spire Communications, Inc.
John F. Miller, Jr.	Baltimore Gas & Electric Company
David Miranda	Potomac Electric Power Company
William H. Willcox Reed, Smith, Shaw & McClay	Montgomery County Employees Federal Credit Union
Joel Rozner Rifkin, Livingston, Levitan & Silver, Inc.	USA Waste, Inc.
Barry F. Scher	Giant Food, Inc.
Karen Guthrie Giet Starpower Communications	Starpower Communications
Roger W. Titus Venable, Baetjer & Howard, LLP	Friendship Heights Village Council
Thomas D. Fleury WEST*GROUP MANAGEMENT, LLC	Westfarm Associates, L.P.
Timothy Dugan, Esq. Wilkes, Artis, Hedrick & Lane	First Cash, Inc., t/a Famous Pawnbrokers Manor Care, Inc. The Maryland Exchange Co.
Larry Gordon Wilkes, Artis, Hedrick & Lane	Adat Shalom Reconstructionist Congregatio Langley Park Associates, Joint Venture National Assoc. of Industrial & Office Prop Temple Beth AMI Winchester Homes
Robert R. Harris Wilkes, Artis, Hedrick & Lane	Chevy Chase Club FARR Development Corporation

Federal Realty Investment Trust
Government Employees Insurance Company
Landy Lane Management Company
McDonald's Corporation
Winchester Homes, Inc.

William Kominers, Esq.
Wilkes, Artis, Hedrick & Lane

The Barlow Corporation
Bethesda Place II
Carey Winston Realty Advisors
Westfarm Associates Limited Partnership

Compensation and expenditures reported by registered lobbyists for lobbying activity were as follows:

The following information summarizes the compensation and expenditures of registered lobbyists in 1998:

Compensation and expenses	$ 1,146.30
Special Events	308.00
Salaries, compensation and reimbursements	5,459.16
Office expenses	42,899.35
Professional and technical research	7,407.31
Cost of publication	2,643.58
Witness fees and expenses	4,000.00
Total of Sections 1-9	300,021.39
Total compensation paid to lobbyists (Section 10)	323,916.14
Gifts	73.15
Other expenses	1,400.00
Grand Total	325,389.29

The following political contributions were reported to the Ethics Commission in 1998:

Patricia Baptiste, Councilmember	$ 250.00
Derick Berlage, Councilmember	1,025.00
Fran Brenneman, Councilmember	1,650.00
Nancy Dacek, Councilmember	375.00
Douglas Duncan, County Executive	3,375.00
Gail Ewing, Councilmember	150.00
William Hanna, Councilmember	2,150.00
Betty Ann Krahnke, Councilmember	475.00
Isiah Leggett, Councilmember	5,100.00
Marilyn Praisner, Councilmember	150.00
Steven Silverman, Councilmember	8,980.00
Michael Subin, Councilmember	3,700.00
Total	27,380.00

APPENDIX E

ETHICS COMMISSION

January 27, 1998

Chairman Kenneth Clark
Charter Review Commission
c/o Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Re: Charter Amendment Regarding Political Activity

Dear Mr. Clark:

I am writing on behalf of the Montgomery County Ethics Commission. The Ethics Commission has received a news release regarding the Charter Review Commission's public hearing on February 4, 1998. By this letter, the Ethics Commission wishes to share its views regarding the first matter identified in the news release. That issue relates to the political activities of County officials who serve on quasi-judicial boards and commissions.

During the last year, the Ethics Commission publicly has expressed its opinion that current County laws may not adequately restrict the political activities of such County officials. Unfortunately, the current Charter may not permit additional restrictions on the political activities of County employees and officials. For the reasons stated below, the Ethics Commission believes that a Charter amendment may be desirable. If a Charter amendment is proposed, the Ethics Commission is available to comment on specific Charter language.

The Ethics Commission places great value upon the perceived integrity and impartiality of quasi-judicial board members and commissioners. A person who serves in a quasi-judicial capacity assumes a special responsibility because of the character of his position. By definition, such persons are empowered to make important decisions regarding the rights and property interests of

100 Maryland Avenue, Room 204
Rockville, Maryland 20850

individual citizens. As many judicial codes of conduct recognize, judges are expected to act in an unbiased and impartial manner. The Ethics Commission believes that many quasi-judicial officials, in light of

MONTGOMERY COUNTY ETHICS COMMISSION

OPEN MEETINGS POLICY

The Montgomery County Ethics Commission (the "Commission") recognizes that, in the words of the Maryland Open Meetings Law:

> It is essential to the maintenance of a democratic society that, except in special and appropriate circumstances:
>
> (1) public business be performed in an open and public manner; and
>
> (2) citizens be allowed to observe:
>
> (i) the performance of public officials; and
>
> (ii) the deliberations and decisions that the making of public policy involves.

Md. Code, State Government Article, §10-501(a). Thus, it is the policy of the Commission to transact as much of its business as possible in sessions that are open to the public, consistent with the restraints imposed by law, e.g., the confidentiality provisions of the Montgomery County Ethics Law and the discretion vested in the Commission by the Maryland Open Meetings Law.

Within those constraints, the Commission will schedule its meetings, construct its agenda, and maintain its minutes so that as much of each meeting as is permissible and appropriate is subject to public scrutiny. Notice of the date, time and place of each meeting shall be posted and disseminated at least one week in advance of each meeting, and minutes of the public portions of the meetings will be available to the public.

[1] In addition, it may be necessary or prudent to amend state laws regarding this matter.