

Rhode Island Ethics Commission
40 Fountain Street
Providence, RI 02903

April 10, 2026

RE: Doug McLean Request for Advisory Opinion

Dear members of the Rhode Island Ethics Commission,

I serve as the Director of Planning and Development for the Town of Coventry. In this capacity, I conduct administrative reviews of various planning applications and provide staff reports and recommendations to the Planning Commission to guide their deliberations and decisions. I recently provided such a staff report and recommendation on a development proposal known as "Village at Tiogue" - a 162-unit Preliminary Plan, Comprehensive Permit Application (25% affordable housing), proposed by 232 Realty Associates/Robert DeBlois. To be clear, my role in the Town's review process is to provide guidance to Coventry Planning Commission. The Planning Commission holds all of the decision-making authority on behalf of the Town to approve or deny the "Village at Tiogue" application. This application was approved by the Planning Commission on Jan. 28, 2026.

I am requesting this Advisory Opinion because an abutter or abutters to the "Village at Tiogue" application have questioned whether there was any unethical conduct in my administrative review of this application. The abutter or abutters have also questioned whether it is unethical for me to engage in private consulting work while also serving as a municipal Planning Director during the review of this application. Note that I have pending future actions on the "Village at Tiogue" application in my public capacity while I am continuing to act as a consultant in my private capacity.

In full transparency, I am also requesting a concurrent Advisory Opinion from the Ethics Commission of the American Institute of Certified Planners (AICP) based on this same information. This is a national organization that oversees the certification that I maintain as a professional planner. A response from the AICP Ethics Commission may take a few months. I will make that AICP Advisory Opinion publicly available after I receive it. It is understood that the AICP Ethics Commission review is completely separate and independent from the RI Ethics Commission review.

The following facts are relevant to the RI Ethics Commission's review of this request:

- As the Director of Planning and Development, I oversee Coventry's planning application process and staff reviews of applications in front of the Coventry Planning Commission. I have served in this position for the past 2 years and 8 months. As it relates to this Advisory Opinion, the most relevant duties that I perform for the Town include:
 - Oversight of Town Planning Staff responsible for carrying out the functions of the Planning Department (5 staff members).
 - Facilitating departmental acceptance and processing of planning applications.
 - Conducting administrative reviews and drafting staff reports to offer guidance on planning applications.
 - Communicating with applicants, applicant team members, other municipal staff, Planning Commission members, project abutters, and other interested parties.
 - Drafting agendas and minutes for the Technical Review Committee and Planning Commission, among other Town Boards.
 - Facilitating meetings of the Technical Review Committee, and providing staff-support to meetings of the Planning Commission.

- I also engage in private consulting work in my free time. This work is focused on expert planning reports and testimony on behalf of, or in opposition to, construction and development projects. I have worked as an expert planning consultant in a sole proprietor capacity since 2018, with additional work as a sole proprietor municipal contractor going back to 2010.
- The most common type of consulting work I do is assisting homeowners with additions or major construction projects to their house/property that trigger the need for zoning relief in front of a local municipal board. My consulting work also includes planning guidance and analysis on behalf of developers seeking local development approvals, as well as planning guidance and analysis on behalf of abutters or neighborhood groups seeking local development denials.
- My private consulting work has never taken place or impacted a property or application within the municipal jurisdiction in which I was working.
- The Coventry Town Manager and I follow a procedure where I provide written disclosure memos to the Town Manager for each and every potential client/business associate I take prior to accepting the consulting work. These disclosure memos include the name of the lead individual as the client/business associate, their company/organization name and contact information, the municipal jurisdiction in which the consulting work will occur, and the overall nature of the consulting work. The Town Manager conducts a review of these disclosure memos to ensure there is no real or perceived conflicts of interest with the potential client/business associate as it relates to my duties for the Town of Coventry. If the Town Manager agrees, he signs the disclosure memo and maintains a copy of the memos in municipal personnel files. Although I can state with certainty that my clients/business associates, as well as my family members, have never crossed paths with my municipal duties, this disclosure process with the Town Manager is intended to provide a second set of eyes on behalf of the municipality. I have maintained this same procedure in my previous municipal employment positions as I believe it follows best standards and practices for public employees in my line of work.
- In my time as a municipal planner, including previous municipal employment positions prior to Coventry, I have never provided guidance or otherwise acted on an application in which the applicant was: 1) an active client/business associate, 2) a previous client/business associate, 3) had a reasonable expectation of becoming a client/business associate, or 4) a family member. For the record, in my time as a consulting planner, I have never had a client/business associate who was: 1) actively in front of me in my municipal role, 2) previously in front of me in my municipal role, or 3) had a reasonable expectation of coming in front of me in my municipal role. Simply put, my private clients/business associates have never crossed paths with my municipal duties. This is by intention and design as I take precautions to ensure that I do not engage with clients/business associates who are reasonably expected to one-day appear before me in my municipal capacity.
- In response to specific questions from “Village at Tiogue” abutters about the ethics involved in my relationship with the applicant of this proposal, I have never had, nor do I reasonably expect to have, a business relationship (as a client or business associate) with Robert DeBlois. I have never had, nor do I reasonably expect to have, a business relationship with any DeBlois-associated company. I do not have family members that had, nor do they reasonably expect to have, a business relationship with Robert DeBlois or any DeBlois-

associated company. I have never interacted with Robert DeBlois or any DeBlois-associated company representative in any capacity other than my municipal duties for Coventry.

- In addition to the above bullet, I have never had, nor do I reasonably expect to have, a business relationship with any member of the “Village at Tiogue” applicant team, including staff from the companies of Adler Pollock & Sheehan (law firm), DiPrete Engineering (site/civil engineer), Crossman Engineering (civil/traffic engineering), and/or any other member of the “Village at Tiogue” applicant team. I do not have family members that have, nor do they reasonably expect to have, a business relationship with any member of the “Village at Tiogue” applicant team or these companies in general.
- I have performed, and continue to perform, my administrative duties on the “Village at Tiogue” application within the commonly-accepted standards for a professional planner in my position. My judgment has not been impaired by any outside influence, nor have I provided favorable treatment to this proposal, or to this applicant, or to any member of this applicant team, either during, before, or after the recent Preliminary Plan application process. This includes my review of the “Village at Tiogue” application, and any other application in Coventry in which members of this applicant team have been engaged. Any previous overlap that I have had with members of this applicant team, such as DiPrete Engineering or Crossman Engineering, as either a municipal planner or as a private consultant, has not altered my judgement or impeded my duties as a Town of Coventry employee in my administrative review of all technical elements provided by such engineering firms.
- There is no evidence within the public record on “Village at Tiogue” that has been identified internally, or been brought forward by abutters, that shows any unethical conduct by myself, or any member of the Planning Department, other Town Depts., or the Planning Commission.
- I have never used, nor will I ever use, my municipal position or authority to obtain or share confidential information as a means to aid private interests or to realize private financial gain for myself, any client/business associate, or any family member. Likewise, I have never obtained or shared, nor will I ever obtain or share, confidential information through my consulting work as a means to influence my duties as a municipal planner.
- I conduct my consulting work outside my Coventry work time, and I do not utilize any Coventry resources to conduct my consulting work.
- I do not intentionally present myself as a Coventry employee when conducting my consulting work. Likewise, I do not to intentionally present myself as a private consultant when conducting my Coventry duties.
- This bullet is in response to specific questions from “Village at Tiogue” abutters regarding a development proposal in the Town of South Kingstown entitled “The Lofts at Fairgrounds.” The Project Team Form on the South Kingstown website listed myself as the Land Use Consultant along with my personal email, but this Form also listed a Town of Coventry mailing address and a Town of Coventry phone number by my name. I did act as a private consultant on this South Kingstown proposal, but the inclusion of Town of Coventry contact information was an unintentional error made during the submission process. Once I learned of this error, I worked with staff from the Town of South Kingstown to correct the project record. I have enclosed the previous and current copies of this Project Team Form (dated 8/29/2015 and 1/29/2026 respectively) in full transparency of how this matter was handled. I

have also enclosed the cover page of my Land Use and Planning consulting report for “The Lofts at Fairgrounds” project to demonstrate that I knowingly presented myself in the document header as a private consultant on this project.

- Apart from the above, I am not aware of any other instances in which any Town of Coventry contact information was inadvertently provided for any other consulting work I have done.
- I have never received a piece of mail to my Coventry address or a call to my Coventry phone number (either the general line at 401-822-6246 or my direct line at 401-822-9184) that was related to my consulting work for the above noted project, or for any other consulting project.
- I have never had to recuse myself from my municipal duties as a result of an active, previous, or reasonably foreseeable client/business associate applying for a development project in Coventry. Additionally, I have never had to recuse myself for the same reason in any municipality in which I previously worked. While recusals for such circumstances would be permissible and appropriate both under the RI Code of Ethics and AICP Code of Ethics and Professional Conduct, thus far my consulting work has not generated enough clients/business associates for this occurrence to have come up.

From my perspective, I have conducted and will continue to conduct my duties for the Town of Coventry within the commonly-accepted standards for a professional planner in my position. This is true as it relates to the “Village of Tiogue” application, and for any other development application in Coventry. Again, my ongoing role with the “Village at Tiogue” application is to provide administrative support. This includes the future actions of supporting the Town’s review of the appeal of the recent approval, and the review of the Final Plan Application stage of this project.

My private consulting work remains separate from my municipal work. This is by intention and design through the practices that I keep. I do not engage with clients/business associates who are reasonably expected to one-day appear before me in my municipal capacity. I do not take on private engagements of any kind that could impact the integrity and independence of my judgment in conducting my municipal duties. Moving forward, if any instance occurred where an active or previous client/business associate did bring an application in Coventry, then I would recuse from that application. I should note that the entirety of the project record on “Village at Tiogue,” including all emails sent to or received by any Town staff person, including myself, has been assembled and provided to the “Village at Tiogue” abutters upon a recent APRA request. The Town of Coventry has provided 100% transparency on all Town records and Town communications on this matter.

Please advise as to my ability to perform future administrative duties for the “Village at Tiogue” application on behalf of Coventry, such as providing support to the project appeal and the review of the Final Plan Application stage, while also continuing to act as private consultant in a manner consistent with the standards and practices described herein.

If the RI Ethics Commission or Commission Staff should require any additional information to assist your review, please let me know. Thank you for taking the time to review this request.



Doug McLean, AICP
Director of Planning and Development
Town of Coventry, RI
401-822-9184
dmclean@coventryri.gov

ENCLOSURES

PROJECT TEAM FORM

Submittal Date: 8/29/2025

The Project Team Form is to be submitted with each stage of review. If no changes to the Project Team have occurred since the last stage of review, a copy of the previously submitted Form may be submitted with an updated Submittal Date.

ATTORNEY *This entity should be copied on all project correspondence* YES NO

Name: Darrow Everett LLP

Name of Primary Contact (if attorney is an organization): Kelley Morris Salvatore, Esq.

Address: One Turks Head Place, Suite 1200, Providence, RI 02903

Phone: (401) 453-1200 Email: ksalvatore@darroweverett.com

ENGINEER *This entity should be copied on all project correspondence* YES NO

Name: DiPrete Engineering

Name of Primary Contact (if engineer is an organization): Eric Prive, PE

Address: Two Stafford Court, Cranston, RI 02920

Phone: (401) 943-1000 Email: eprive@diprete-eng.com

SURVEYOR *This entity should be copied on all project correspondence* YES NO

Name: DiPrete Engineering

Name of Primary Contact (if surveyor is an organization): Matthew Insana, PLS

Address: Two Stafford Court, Cranston, RI 02920

Phone: (401) 943-1000 Email: minsana@diprete-eng.com

LANDSCAPE ARCHITECT *This entity should be copied on all project correspondence* YES NO

Name: Diane C. Soule & Associates

Name of Primary Contact (if landscape architect is an organization): Diane C. Soule, RLA

Address: 422 Farnum Pike, Smithfield, RI 02917

Phone: (401) 231-0736 Email: diane@dcsa.ws

ARCHITECT *This entity should be copied on all project correspondence* YES NO

Name: Newbury Design Associates, Inc.

Name of Primary Contact (if architect is an organization): David M. Berryman, AIA, NCARB

Address: 100 Foxborough Boulevard, Suite 160

Phone: (508) 620-9705 x209 Email: dberryman@nda-arch.com

OTHER *This entity should be copied on all project correspondence* YES NO

Name: Crossman Engineering

Role on Project: Traffic Engineer

Name of Primary Contact (if entity is an organization): Paul J. Bannon, Senior Project Director

Address: 100 Jefferson Boulevard, Suite 200, Warwick, RI 02888

Phone: (401) 738-5660 Email: paul.bannon@crossmaneng.com

OTHER | This entity should be copied on all project correspondence YES NO

Name: Doug McLean, AICP

Role on Project: Land Use Consultant

Address: 1670 Flat River Road, Coventry, RI 02816

Phone: 401-822-6246 Email: dougmclean303@gmail.com

OTHER | This entity should be copied on all project correspondence YES NO

Name: Joseph D. Lombardo, AICP

Role on Project: Fiscal Consultant

Address: 7 Clam Shell Drive, Westerly, RI 02891

Phone: 401-539-2232 Email: lombardo33@outlook.com

OTHER | This entity should be copied on all project correspondence YES NO

Name: The Community Housing Land Trust of Rhode Island; contact Executive Director Melina Lodge

Role on Project: Monitoring agent

Address: 2181 Post Road, Warwick, RI 02886

Phone: 401-721-5680 Email: mlodge@housingnetworkri.org

PROJECT TEAM FORM

Submittal Date: 8/29/2025
AMENDED 1/29/2026

The Project Team Form is to be submitted with each stage of review. If no changes to the Project Team have occurred since the last stage of review, a copy of the previously submitted Form may be submitted with an updated Submittal Date.

ATTORNEY *This entity should be copied on all project correspondence* YES NO

Name: Darrow Everett LLP

Name of Primary Contact (if attorney is an organization): Kelley Morris Salvatore, Esq.

Address: One Turks Head Place, Suite 1200, Providence, RI 02903

Phone: (401) 453-1200 Email: ksalvatore@darroweverett.com

ENGINEER *This entity should be copied on all project correspondence* YES NO

Name: DiPrete Engineering

Name of Primary Contact (if engineer is an organization): Eric Prive, PE

Address: Two Stafford Court, Cranston, RI 02920

Phone: (401) 943-1000 Email: eprive@diprete-eng.com

SURVEYOR *This entity should be copied on all project correspondence* YES NO

Name: DiPrete Engineering

Name of Primary Contact (if surveyor is an organization): Matthew Insana, PLS

Address: Two Stafford Court, Cranston, RI 02920

Phone: (401) 943-1000 Email: minsana@diprete-eng.com

LANDSCAPE ARCHITECT *This entity should be copied on all project correspondence* YES NO

Name: Diane C. Soule & Associates

Name of Primary Contact (if landscape architect is an organization): Diane C. Soule, RLA

Address: 422 Farnum Pike, Smithfield, RI 02917

Phone: (401) 231-0736 Email: diane@dcsa.ws

ARCHITECT *This entity should be copied on all project correspondence* YES NO

Name: Newbury Design Associates, Inc.

Name of Primary Contact (if architect is an organization): David M. Berryman, AIA, NCARB

Address: 100 Foxborough Boulevard, Suite 160

Phone: (508) 620-9705 x209 Email: dberryman@nda-arch.com

OTHER *This entity should be copied on all project correspondence* YES NO

Name: Crossman Engineering

Role on Project: Traffic Engineer

Name of Primary Contact (if entity is an organization): Paul J. Bannon, Senior Project Director

Address: 100 Jefferson Boulevard, Suite 200, Warwick, RI 02888

Phone: (401) 738-5660 Email: paul.bannon@crossmaneng.com

OTHER | This entity should be copied on all project correspondence YES NO

Name: Doug McLean

Role on Project: Land use consultant

Address: Two Carriage Trail, Barrington, RI 02806

Phone: 401-474-9514 Email: dougmclean303@gmail.com

OTHER | This entity should be copied on all project correspondence YES NO

Name: Joseph D. Lombardo

Role on Project: Fiscal consultant

Address: 7 Clam Shell Drive, Westerly, RI 02891

Phone: 401-539-2232 Email: lombardo33@outlook.com

OTHER | This entity should be copied on all project correspondence YES NO

Name: The Community Housing Land Trust of Rhode Island; contact Executive Director Melina Lodge

Role on Project: Monitoring agent

Address: 2181 Post Road, Warwick, RI 02886

Phone: 401-721-5680 Email: mlodge@housingnetworkri.org

DOUGLAS R. MCLEAN, AICP

Planning Consultant ♦ 401-474-9514 ♦ dougmclean303@gmail.com

Land Use and Planning Report
Review of Major Land Development – Master Plan
Comprehensive Permit Application



“The Lofts at Fairgrounds”
311-Unit Affordable Housing Development
in West Kingston, RI

August 28, 2025

On Behalf of 132 Fairgrounds LLC

Review of Properties at 132 Fairgrounds Road, West Kingston, RI 02892; AP 21-3, Lot 9



STATE OF RHODE ISLAND

RHODE ISLAND ETHICS COMMISSION

40 Fountain Street, 8th Floor

Providence, RI 02903

(401) 222-3790 (Voice/TT)

Email: ethics.email@ethics.ri.gov

Website: <https://ethics.ri.gov>

May 5th, 2026

Doug McLean, AICP
Dept. of Planning and Development
1670 Flat River Road
Coventry, RI 02816

Re: Advisory Opinion No. 2026-14

Dear Mr. McLean:

The Ethics Commission rendered Advisory Opinion No. 2026-14 at its meeting on May 5th, 2026. A copy is enclosed.

If you have any questions, please contact this office.

Sincerely yours,

Lauren E. Jones,
Chairperson

LJ:jc

Enclosure

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2026-14

Approved: May 5, 2026

Re: Doug McLean, AICP

QUESTION PRESENTED:

The Petitioner, the director of planning and development for the Town of Coventry, a municipal employee position, who in his private capacity works as a planning consultant, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from continuing to: (1) perform his official duties relating to the appeal of a recent planning board decision approving an application for the Village at Tiogue; and/or (2) work in his private capacity as a planning consultant.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, the director of planning and development for the Town of Coventry, who in his private capacity works as a planning consultant, is not prohibited by the Code of Ethics from continuing to: (1) perform his official duties relating to the appeal of a recent planning board decision approving an application for the Village at Tiogue; and/or (2) work in his private capacity as a planning consultant consistent with the provisions outlined herein.

The Petitioner is the director of planning and development for the Town of Coventry, having been appointed to that position by the town manager almost three years ago. He identifies among his public duties the following: overseeing planning department staff; facilitating departmental acceptance and processing of planning applications; conducting administrative reviews and drafting staff reports to offer guidance on planning applications; communicating with applicants, applicant team members, other municipal staff, planning commission members, project abutters, and other interested parties; facilitating meetings of the technical review committee and providing staff support to meetings of the planning commission; and drafting agendas and minutes for the technical review committee and planning commission, among other town boards. The Petitioner states that his regular work hours are from 8:30 a.m. to 4:30 p.m., Monday through Friday. He adds that he regularly attends planning commission meetings several evenings per month.

The Petitioner represents that he recently provided a staff report and recommendation to the planning commission relating to a development proposal known as the Village at

Tiogogue, a 162-unit preliminary plan and comprehensive permit application (collectively, the application) proposed by 232 Realty Associates/Robert DeBlois (Mr. DeBlois). The Petitioner further represents that the application was approved by the planning commission on January 28, 2026. The Petitioner explains that an appeal of the planning commission's decision was timely filed by both Mr. DeBlois¹ and a group of approximately one dozen abutters to the subject property and is currently pending in the Rhode Island Superior Court. The Petitioner informs that his public duties during the appellate process will include providing information and access to documents to the town's solicitor.

The Petitioner states that in his private capacity he performs planning work on a consultant basis which includes the provision of expert reports and testimony on behalf of, or in opposition to, construction and development projects. He explains that he has performed this work as a sole proprietor for private clients since 2018 and for municipalities since 2010. The Petitioner represents that the most common type of consulting work that he does involves assisting homeowners with additions or major constructions projects to their house or property which trigger the need for zoning relief in front of a local municipal board. He further represents that his consulting work also includes planning guidance and analysis on behalf of developers seeking local development approvals, as well as planning guidance and analysis on behalf of abutters or neighborhood groups seeking local development denials.

The Petitioner states that he performs his private consulting work outside of his regular work hours for the town and without the use of public resources. The Petitioner further states that his private consulting work has never taken place, or impacted a property or application, within a municipality by which he was or is employed; therefore, he has not been required, nor is he required now, to appear before his own municipal agency or any other agency in a municipality employing him, including Coventry, as part of his private employment. The Petitioner informs that, in his time as a private consulting planner, he has never had a client who was actively or previously before him in his public capacity or who had a reasonable expectation of appearing before him in his public capacity. The Petitioner further informs that he does not use his public position to solicit business or customers for his private consulting work. He represents that in his time as a municipal planner, he has not provided guidance or otherwise acted on an application in his public capacity in which the applicant was an active or previous client, had a reasonable expectation of becoming a client, or was a family member. The Petitioner further represents that he has never used, nor would he ever use, his public position or authority to obtain or share confidential information as a means to aid his private interests to realize private financial gain for himself, any member of his family, or any client or business associate.

¹ The Petitioner explains that Mr. DeBlois' appeal relates to a component of the bond associated with the project.

The Petitioner states that certain abutters to the proposed Village at Tiogue who have filed an appeal of the planning commission's recent approval of the Village at Tiogue application have alleged that the Petitioner should have recused from participation in that matter in his public capacity in light of the private consulting work in which he engages, and further alleged that the Petitioner has a business associate relationship with the applicant, Mr. DeBlois. The Petitioner further states that the same abutters have suggested that the Petitioner should not engage in private planning consulting work while simultaneously serving as the town's director of planning and development during the pendency of the Village at Tiogue application, including all appeals. The Petitioner explains that this suggestion is likewise based on the allegation that he and Mr. DeBlois are business associates. The Petitioner emphasizes that he has never had, nor does he reasonably expect to have, a financial relationship with Mr. DeBlois, any DeBlois-associated company, or with anyone else on the Village at Tiogue applicant team including, but not limited to, the attorneys and staff from Adler, Pollock & Sheehan, DiPrete Engineering, and Crossman Engineering. The Petitioner adds that he has never interacted with Mr. DeBlois or any DeBlois-associated company other than in his public capacity. It is under this set of facts that the Petitioner seeks advice from the Ethics Commission regarding whether he is prohibited by the Code of Ethics from continuing to: (1) perform his official duties relating to the appeal of the recent planning board decision approving the application for the Village at Tiogue; and/or (2) work in his private capacity as a planning consultant.²

Performance of Official Duties

The Code of Ethics provides that a public official shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity which is in substantial conflict with the proper discharge of his duties in the public interest. § 36-14-5(a). A public official has an interest which is in substantial conflict with the proper discharge of his duties in the public interest if he has reason to believe or expect that he, any person within his family, his business associate, or any business by which he is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). Further, § 36-14-5(d) prohibits a person subject to the Code of Ethics from using his public office, or confidential information received through his holding public office, to obtain financial gain for himself, any person within his family, his business associate, or any business by which he is employed or which he represents. A "business associate" is defined as a "person joined together with another person to achieve a common financial objective." R.I. Gen. Laws § 36-14-2(3). A "person" is defined as an "individual or a business entity." § 36-14-2(7). Also, § 36-14-5(c) prohibits the use of and/or disclosure of

² The Petitioner has represented to Ethics Commission staff that he understands that advisory opinions are based on prospective conduct only and that this advisory opinion will not address the Petitioner's prior conduct in either his public or private capacity.

confidential information acquired by a public official during the course of or by reason of his official duties, particularly for the purpose of obtaining financial gain.

In past advisory opinions, the Ethics Commission has required a public official to recuse from consideration of a matter if it impacted an individual or entity with which the official had an ongoing business relationship, or if such an individual or entity appeared before the official's public body. See A.O. 2016-45 (opining that a member of the Tiverton Planning Board was prohibited from participating in the planning board's discussions and voting relative to a matter in which her business associate appeared as an expert witness, given that they had worked together professionally in the past on projects, often referred work and clients to each other, and would continue to refer work and clients to each other).

Here, the Petitioner represents that he has never had, nor does he reasonably expect to have, a financial relationship with Mr. DeBlois, any DeBlois-associated company, or with anyone else on the Village at Tiogue applicant team including, but not limited to, the attorneys and staff from Adler, Pollock & Sheehan, DiPrete Engineering, and Crossman Engineering. Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from continuing to perform his official duties relating to the appeal of the planning commission's approval of the Village at Tiogue application.

Continued Work in Private Capacity

Pursuant to R.I. Gen. Laws § 36-14-5(b), no person subject to the Code of Ethics shall accept other employment that will either impair his independence of judgment as to his official duties or require or induce him to disclose confidential information acquired by him in the course of, and by reason of, his official duties. The Ethics Commission consistently has opined that persons subject to the Code of Ethics are not inherently prohibited from holding private employment that is secondary to their public positions, provided that the employment would neither impair their independence of judgment nor create an interest in substantial conflict with their public duties, and subject to certain other restrictions. The Ethics Commission examines several factors when considering potential conflicts regarding private employment. These factors include, but are not limited to, the nexus between the official's public duties and desired private employment; whether the public official completes such other work outside of his normal public service hours and without the use of public resources; whether the public official is required to appear before his own agency as part of his private employment; whether such other work is to be conducted outside of the areas over which the public official has decision-making jurisdiction in his public capacity; and whether the public official uses his public position to solicit business or customers for his private position. See General Commission Advisory No. 2009-4.

The Ethics Commission regularly has allowed public officials and employees to engage in secondary private employment that was outside of their official public jurisdiction. For

example, in Advisory Opinion 2006-17. The Ethics Commission opined that a lieutenant with the East Providence Police Department could apply for a private investigator's license and operate said business in the City of East Providence. However, the following conditions were imposed: (1) the petitioner could have no involvement with matters subject to the East Providence Police Department's official jurisdiction; (2) he could not disclose any confidential information that he obtained in the course of his employment with the police department; (3) he could only perform such work on his own time and without the use of public resources, including law enforcement databases; (4) he could not use his position as a police officer to obtain clients or private work; and (5) he could not accept any cases or perform any work within the City of East Providence for as long as he was employed by that city's police department). See also A.O. 2016-16 (opining that an environmental health food specialist for the Rhode Island Department of Health was not prohibited from working on her own time and in her private capacity as a food safety consultant for food establishments in Connecticut and/or Massachusetts because the petitioner's public employment was limited to regions within Rhode Island and her private consulting work would occur outside of the state; therefore it was unlikely that she would be performing consulting services in her private capacity where she performed inspections in her public capacity, leading the Ethics Commission to determine that the petitioner's private employment would be neither in substantial conflict with her duties in the public interest nor impair her independence of judgment as to her public duties.

Here, because the Petitioner's public employment is limited to the Town of Coventry, and the Petitioner states that his private consulting work has never taken place or impacted a property or application within the municipality by which he was or is employed, there is no indication that the Petitioner's continued private employment would be in substantial conflict with his duties in the public interest or impair his independence of judgment as to his public duties. Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from continuing to work in his private capacity consistent with the provisions outlined herein.

Summary

In consideration of the facts as represented, and consistent with the applicable provisions of the Code of Ethics, prior advisory opinions issued, and the analysis herein, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from continuing to perform his official duties relating to the appeal of the planning commission's approval of the Village at Tiogue application, or from continuing to work in his private capacity consistent with the provisions outlined herein. Finally, this advisory opinion cannot anticipate every situation in which a conflict of interest might arise and, thus, provides only general guidance as to the application of the Code of Ethics based on the facts represented herein. The Petitioner is advised to remain vigilant about identifying potential conflicts of interest and to either recuse or seek further guidance from the Ethics Commission in the future as warranted.

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, agency policy, ordinance, constitutional provision, charter provision, or canon of judicial or professional ethics may have on this situation.

Code Citations:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(c)

§ 36-14-5(d)

§ 36-14-7(a)

Related Advisory Opinions:

A.O. 2016-45

A.O. 2016-16

A.O. 2006-17

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Private Employment