

EDWARD P. MANGANO
COUNTY EXECUTIVE



**COUNTY OF NASSAU
BOARD OF ETHICS**

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BOARD OF ETHICS

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ADVISORY OPINION NO. 101-17

A [REDACTED] who is also Chief Executive Officer and part owner of a [REDACTED] company, requests an advisory opinion as to whether a prohibited conflict of interest would exist if the [REDACTED] company were engaged in various hypothetical transactions.

GOVERNING AUTHORITY

Nassau County Charter section 2218 (the "Code of Ethics") provides at subdivision 2 (Conflicts of Interest Prohibited), in pertinent part, that:

- a. ... [N]o County officer or employee whether paid or unpaid shall...
 - (1) Have a financial interest... in any business or professional dealings with the County or any agency thereof or a financial interest in any entity which has business or professional dealings with the County....
 - (3) Accept or retain other employment, engage in any business transactions, or make or retain any investments, have any financial interest, or engage in other activities that directly or indirectly create a conflict with his or her official duties....

The Nassau County Code of Ethics provides at subdivision 4 (Recusal and Disclosure of Interest), in pertinent part, that:

- a. A County officer or employee, whether paid or unpaid, shall promptly recuse himself or herself from acting on any matter before the County in which he or she has (i)

any direct or indirect financial or (ii) any other private interest that a reasonable person would perceive to compromise his or her ability to make impartial judgment or take discretionary actions in the best interest of the County.

b. Any County officer or employee who recuses himself or herself pursuant to paragraph (a) of this subdivision shall be required to disclose such recusal in writing to the Board [of Ethics] and the nature of his or her private interest...

DISCUSSION

[REDACTED] company is an [REDACTED]
[REDACTED]
[REDACTED]

In considering a request for ethics advice, the Board generally employs a three step analysis to determine whether a prohibited conflict of interest would exist if a County officer or employee were to engage in particular proposed conduct that is sufficiently described. The Board considers: (i) whether the proposed conduct would violate New York General Municipal Law Article 18 (Conflicts of Interest of Municipal Officers and Employees), (ii) whether the proposed conduct would violate the Nassau County Code of Ethics, and (iii) whether the proposed conduct would create a prohibited appearance of impropriety under common law principles.

In order to properly analyze an ethics inquiry, the Board of Ethics must have the ability to apply these laws and principles to a particular set of facts. The Board of Ethics is unable to render advisory opinions based on hypothetical facts that are not fully developed.

CONCLUSION

The Board of Ethics is available to provide ethics advice to County officers and employees based on a fully developed set of facts. [REDACTED] may renew this request in connection with a particular title transaction or proposed legislative act.

The foregoing constitutes the opinion of the Board of Ethics.

Dated: Mineola, New York
March , 2017

31st

A handwritten signature in black ink, consisting of a large, stylized 'O' followed by 'S' and 'M', with a horizontal line underneath.

Owen Smith, Chair