



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 87-4

Ethical Concerns When Private Activity Bears A Relationship to Official Duties

The Director of Administration and Property Management in the Office of Facilities, University of Connecticut, is attempting to arrange the sale, to the labor union representing University professors, of a house and lot he owns. He has asked whether his activities will conflict with the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

The Office of Facilities, which is headed by the Assistant Vice President for Facilities Management, contains four departments: Three of them are Planning, Operations, and Engineering. The fourth is headed by the Director of Administration and Property Management. He has overall responsibility for the business functions of the Office and directs the activities of two major subordinates, one of them the Property Coordinator. Under the Director, the Property Coordinator administers University-owned property consisting of some 55 residential units, 14 commercial businesses, and 9 fraternity and sorority houses. The Director works with the local municipality on such issues involving the University-owned property as traffic control and, as a matter of comity, coordinates with the town matters which are covered by its zoning regulations. He handles them over the telephone. If personal contact with town officials is required, the Property Coordinator assumes responsibility for it. The Director has essentially no involvement regarding easements and ground leases. Decisions on these matters are made by the Assistant Vice President for Facility Management's immediate superior, the Vice President for Finance and Administration, based on the analysis and recommendations of the Assistant Vice President and his Director of Engineering.

The house and lot which the Director plans to sell is adjacent to the University. Under a covenant running with the land, the University furnishes the property water and sewer services. Those services are conditional upon the University having the right of first refusal if the property is offered for sale. The prospective purchaser wishes to use the house as an office. For this to be feasible, access and parking easements must be obtained from the University. Offices are

not an authorized use in the zone in which the property is located. A special permit to use the house as an office will have to be obtained from the town.

The Director has asked the University whether it wishes to exercise or waive its right of first refusal. He is taking no other action to permit the property to be used as an office. The labor union will seek the parking and access easements, or long-term leases, from the University. These will be granted or denied by the immediate superior of the Director's immediate superior, with no input from the Director or his department. The union also will present the case for a special permit to the town. Again, the Director will take no part in the decision whether to grant the special permit.

Because of the Director's involvement in real estate matters on behalf of the University, including cooperation insofar as possible with town zoning authorities, both he and the University are concerned that the matter of selling his house and land could bring him into conflict with some provision of the Code of Ethics.

There being no confidential, inside information involved, the Code provisions applicable require that the Director not use his State position for his financial benefit (subsections 1-84(a), 1-84(c), General Statutes); not engage in outside activity, for profit, which will impair his independence of judgment (subsection 1-84(b), General Statutes); and not enter into a contract with the State, valued at \$100 or more, except through an open and public process (subsection 1-84(i), General Statutes).

Since he and his department will not become involved in any way with the request to the University for easements or long-term leases, or to the town for a special permit, there should be no possibility of actual improper use of his office for his financial benefit. As he describes his relationship with town authorities, he does not deal with them face-to-face. They may not even know he is the owner of the property for which a special permit is being requested. Consequently, there should be little danger of inadvertent use of his office. For the same reasons, his independence of judgment as to his official duties should not be impaired by the procedures necessary to make the sale of his property possible. Finally, the provision regarding contracts with the State seems to be of no concern. The sale of the property is not to the University but to a private organization, the collective bargaining unit representing the University faculty. (When he bought the property it was on the open market. The purchase process was an open and public one, should either the agreement of the University to provide water

and sewer service, or his to give the University the right of first refusal, possibly be construed as a contract valued at \$100 or more.) In summary, there should be no Code violations.

The faculty's labor union is registered as a lobbyist with the Ethics Commission. However, under the facts given that does not make any other provisions of the Code of Ethics for Public Officials, or any provisions of the Code of Ethics for Lobbyists (Chapter 10, Part II, General Statutes) applicable to the situation.

By order of the Commission,

Julie Peck
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Chairperson

Dated April 11, 1987

