



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 92-16

Public Official Who Has A Property Interest In Hartford
Participating In The Selection Of A Site For The
Connecticut Convention Center-II

E. Clayton Gengras, Jr., Chairman of the Connecticut Convention Center Authority (CCCA), has asked the Ethics Commission to further elaborate on its previous advice regarding his official participation in the site selection process for a convention center in Hartford.

In Ethics Commission Advisory Opinion No. 92-8, 53 Conn. L.J. No. 40, p. 3D (3/31/92) the Commission held, in pertinent part, that Mr. Gengras' interest (income beneficiary of a trust) in a property proximate to a site being considered for the convention center did not create an impermissible conflict under the Code of Ethics for Public Officials which would legally bar his official participation in the site selection process. The Commission based its finding that any possible financial gain was too "...speculative and remote..." to engender a conflict under the Code on the fact that the Gengras trust property was under long-term lease, with a potential thirty-one year duration. Under §1-85 of the Code a public official has a conflict of interests which bars official action only if he has reason to believe or expect that he, his immediate family, or an associated business will derive a direct monetary gain as a result of the official activity.

Subsequent to the publication of Advisory Opinion No. 92-8, other members of the CCCA questioned whether the Ethics Commission, in issuing that Opinion, took cognizance of the fact that the lease in question could be bought out; thereby unencumbering the property and potentially leading to "...an enormous windfall..." for Mr. Gengras, if the convention center was constructed nearby. Minutes of CCCA Board meeting, p. 12, April 16, 1992. As a consequence of these concerns, Mr. Gengras has asked the Ethics Commission to issue another advisory opinion, stating whether or not the Commission considered the possibility of a lease buy out in its earlier ruling, and what the ramifications of such a potential for a buy out would be for Mr. Gengras' participation in the site selection process.

In issuing Advisory Opinion No. 92-8, the Ethics Commission did consider the possibility of a lease buy out occurring with

regard to the Gengras trust property. Specifically, the Commission reviewed neither the actual lease nor the trust agreement at issue; but rather assumed, for purposes of its Ruling, that, given the proper economic circumstances, a lease buy out could be transacted, regardless of the terms of the current underlying legal arrangements.

Notwithstanding this potential, the Ethics Commission concluded, based on its review of the entire matter as presented, that the possibility of such a buy out occurring and resulting in a direct financial gain to Mr. Gengras was too speculative and remote to create in Mr. Gengras a current reasonable belief or expectation of direct profit, as required to bar his official action on the matter pursuant to §1-85 of the Code. Of course, if, for any reason, Mr. Gengras did, in fact, have a belief or expectation of a lease buy out and consequent direct financial gain, his official action regarding site selection for the convention center would, unquestionably, be prohibited by §1-85.

In raising their concerns regarding a potential conflict of interests, members of the CCCA spoke of the desire to avoid "...even...the perception of any conflict." Minutes of CCCA Board meeting, p. 12, April 16, 1992. In interpreting and enforcing the Code of Ethics for Public Officials, however, the Ethics Commission is limited, by statute, from addressing appearances or perceptions of conflict of interest. See, Conn. Gen. Stat. §§1-84, 1-85, and 1-86. Consequently, it is beyond this Commission's official purview to require, or endorse, the remedial measures suggested by certain members of the CCCA in this instance (i.e., Chairman Gengras' recusal from the site selection process, or an agreement by the Trust not to enter into a buy out during the term of the current lease). The advisability of any such action not required by the Code of Ethics must be determined, not by the Ethics Commission, but by Chairman Gengras and the other members of the CCCA.

By order of the Commission,



Christopher T. Donohue
Chairperson

Dated 6-1-92