

TO: GREENBURGH TOWN BOARD

**CC: GREENBURGH TOWN CLERK
GREENBURGH TOWN ATTORNEY**

BOARD OF ETHICS ANNUAL REPORT TO TOWN BOARD FOR 2019

I. OVERVIEW

During 2019, the principal activities of the Board of Ethics were: (1) administering the Annual Statement of Financial Disclosure process, (2) issuing opinions on requests for advisory opinions, (3) reporting on the status of promulgation of the Code of Ethics and ethics training, both of which are required by the Code of Ethics, and (4) reviewing and enhancing the Board of Ethics section of the Town Website.

II. SUMMARY OF ACTIVITIES IN 2019

A. Annual Statements of Financial Disclosure

In 2019, with no exceptions, all Town public officers and employees who were required to submit the Annual Statement Financial Disclosure did so. All agency members, with the exception of four, did submit the Financial Disclosure Form. Letters were sent by the town to those who were non-compliant.

B. Opinions

In 2019 the Board of Ethics issued a total of two opinions. All were advisory opinions in response to requests or suggestions. The Board of Ethics received two Verified Citizen Complaints in 2019 which at the present time are still pending.

All opinions are posted on the Board of Ethics Section of the Town's website.

ADVISORY OPINION 2019-1. This Advisory Opinion addresses a confidential request for an opinion received by the Board of Ethics in an email on January 17, 2019 regarding whether a Greenburgh department paid employee may also serve as a volunteer member on a board located in the employee's town of residence. The employee asked specifically about Section 570-7 (b).

In the opinion of the Board of Ethics, there is no violation of Town Code Section 570-7 (b). An appointment to a volunteer board does not constitute holding elected public office. The fact that the employee referred to one specific section of the Town Code does not mean that the Board of Ethics is not obligated to look at the entirety of the Town Code and apply it to this particular request. Upon review, the Board of Ethics found no violation of any policies outlined anywhere in the Town Code.

ADVISORY OPINION 2019-2. In July 2019, a confidential request for an opinion was received by the Board of Ethics asking whether the requesting individual can accept an appointment to a Greenburgh advisory board even though an employee of the town who interacts and receives advice from the advisory board is a client of his firm. The requesting individual has asked that he and the Town employee remain anonymous.

The members of the BOE found no reason not to honor the request for anonymity. The firm is not located within the Town of Greenburgh, has no contracts with the town, does no business with the town and derives no income or revenue from town government. There are no actions or decisions which the employee has made or could make in his capacity as an employee

of the town that could foreseeably have any financial benefit to the requesting individual or his firm. See Sections 570-3, 570-4, 570-4 (b).

The BOE could not at this time under the facts presented see any reason for the requesting individual to recuse himself in the decisions of the Advisory Board. Such a requirement would render his service to the town and the Advisory Board pointless and non-productive.

C. Code of Ethics Promulgation and Training

In September 2012, the Town Board made changes to the Town Code of Ethics. Over the past seven years the Board of Ethics has worked cooperatively with the Office of the Town Attorney and the Town Clerk's Office on promulgation of the revised code and with the Office of the Town Attorney on ethics training. In 2013 Greenburgh elected officials were given the required training. In 2014 the Office of the Town Attorney provided training to appointed officials and certain employees. Agency members still need to be trained. This is an on going process, which will continue into 2020.

D. Review and Enhancement of Board of Ethics Section of Town Website

In 2007, the Board of Ethics Section of the Town website was implemented. It contains among other things opinions, advisory opinions, Rules of the Board of Ethics, forms, Board of Ethics Reports on various ethics issues, Annual Reports of the Board of Ethics and information on the members of the Board of Ethics. This material was placed on the website to assist those individuals covered by the Code of Ethics comply with the Code of Ethics and to provide visibility concerning ethics matters to the citizens of Greenburgh. In 2014, the Board of Ethics completed work begun in 2013 to review and enhance this section of the Town website. Included in this effort was a focus on easy-of-use of the site by users and on the completeness and currency of Section 570 and its various components. The process continued in 2018. Amendments to the Code of Ethics created by the Board of Ethics have been submitted to the Town Board of Greenburgh for ratification.

III. MEMBERSHIP AND COUNSEL

A. Membership

In January 2019, Hon. Doris T. Friedman was re-elected as Chairperson of the Board of Ethics. She will serve until 2022. Dr. Sarcinella, who was Secretary to the Board, stepped down from the board effective January 1, 2019. Her outstanding service to the Board of Ethics and the community is greatly appreciated. In January 2019, Blase Spinozzi was appointed Secretary of the Board of Ethics.

In 2019, Christopher Cuomo and Tim Hays were appointed to the board. In September 2019, Mr. Zumsteg and Mr. Cuomo resigned from the board for personal reasons, necessitating the appointment of two new board members, Trudy Holand and David Schwartz. Because of the unexpected resignations of Messrs Zumsteg and Cuomo, and physical constraints placed upon Chairperson Honorable Doris Friedman, the BOE was unable to meet from September 2019 until January 2020 due to a lack of a quorum.

B. Independent Counsel

The Board of Ethics does not have compensated independent counsel. NYS Law (General Municipal Law Section 802 (2) states that a municipal board of ethics "shall have the advice of counsel employed by the board." Joseph S. Malara has served as pro bono independent counsel to the Board of Ethics since 2010. His advice and counsel have been indispensable and very helpful to the board.

IV. 2014 PRIORITIES AND RECOMMENDATIONS

A. Code of Ethics Promulgation and Training

In 2010, a New York State Ethics audit found the Town to be deficient in the area of ethics training. To date a great deal of progress has been made, but more is required in order to reach all who need the training. Although significant progress has been made, the Ethics Board will continue to work with the office of the Town Attorney to continue the successful progress and the board will continue to monitor the progress of this activity in 2020.

B. Update of the Code of Ethics

The Board will continue to update the Code of Ethics, section 570-6.

Dated: February 2020.

Respectfully submitted,

GREENBURGH BOARD OF ETHICS

Doris Friedman (2022)
Blase Spinozzi (2025)
Tim Hays (2023)
Trudy Holand (2024)
David Schwartz (2024)

cc: Joseph Malara, Esq., Counsel