

TO: Mr. David Fried, Deputy Town Attorney
Mr. Paul Feiner, Greenburgh Town Supervisor
CC: Greenburgh Town Council
Greenburgh Town Clerk

Opinion 2020-1

Background

This Advisory Opinion addresses a confidential request for an opinion received by the Board of Ethics in an email on July 8, 2019 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 can find 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.

ANALYSIS

§ 570-3 of the Town of Greenburgh Code of Ethics is entitled; "Definitions; word usage" Under these definitions *Advisory Boards*, which do not have decision making responsibilities, are not considered an Agency of the Town as defined under that term. Therefore the members of advisory boards do not fall under the category of Agency member.

§ 570-4 standards of Conduct" apply to Employees, Public Officers and Agency members. This section of the Code would not apply to a member of an advisory board.

§ 570-4 (b) provides that No Public Officer, Employee or Agency Member shall engage in, solicit, negotiate for, promise to accept, accept or perform private employment, furnish goods or render services for private interests when such employment or service creates or may reasonably create a conflict with or impairs or may reasonably impair the proper and impartial discharge of her/his official duties. Although this section would apply to the employee, this BOE cannot see at this time any benefit financial or otherwise that the employee could derive from the actions of the requesting individual as a member of a board which is advisory only and subject to the Town board regarding final decisions. Nor does the BOE find that the employee would be in conflict with § 570-4 (i) at this time and under the facts as presented.

The BOE cannot 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.

Opinion

The BOE commends the requesting individual for seeking to avoid any conflicts of interest and potential ethics violations. The Board of Ethics, can find no violation of Town Code§ 570-4. Due to the fact that the authority of the board in question is strictly advisory, there does not appear to be any conflict. Upon review, the Board of Ethics find no violation of any policies outlined anywhere in the Town Code. This advisory opinion is based on the facts presented to the Board of Ethics. No opinion is expressed herein as to what conclusions would be reached if any of the facts upon which this advisory opinion is based were to change.

Dated: September 24, 2019

(Adopted January 14, 2020)

BY THE BOARD OF ETHICS

Voting for:

Mr. Zumsteg, Acting Chair

Mr. Cuomo

Mr. Hays

Mr. Spinozzi