

CONFLICT OF INTEREST –  
DEFINING A FINANCIAL INTEREST

CAMBRIDGE ETHICS COMMISSION  
C/O ROBERT S. COLLISON, ESQ.  
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CAMBRIDGE, MD 21613

ADVISORY OPINION 06 - 2013

Frank Cooke, a member of the Board of Zoning Appeals requested an Advisory Opinion regarding a matter that was coming before that board. It involved the property at 705 Church Street in the City of Cambridge. According to his inquiry, at one point in the past Mr. Cooke looked at the property as a possible investment and did research regarding the property to help him determine if it was something that he wanted to purchase. As a result of his investigation, he determined that he did not wish to purchase the property and thereafter he has had no interest in it.

Subsequently someone either purchased the property or was interested in purchasing the property, and appealed the decision of the city zoning official that required that the property be brought into compliance with the zoning law. This decision would, apparently, prevent the property from being used as a multi-family apartment building.

That decision was on appeal to the Board of Zoning Appeals, and Mr. Cooke sought an Advisory Opinion on whether his involvement in and knowledge of the property would require that he recuse himself from participating in the discussion of or decision of this appeal.

The relevant part of the Conflict of Interest section 4 (e) 4 of The Cambridge City Code controls this fact situation and states that “*Subject to the exceptions in subsection 1, an official or employee subject to this section may not participate in*

*the discussion of any contract or matter or vote on or make a substantive decision about any contract or matter in which s/he or a qualified relative has a specific interest, regardless of whether a business entity is involved... ”*

Under the fact situation presented to the Ethics Commission, Mr. Cooke never had, and does not currently have, any interest in the subject property. The fact that he investigated the property and may have greater knowledge of the property than someone else would not require that he disqualify himself from participating in the hearing of this matter.

The one caveat to this opinion is that if Mr. Cooke does participate in the hearing of this matter, he then may not at some later date involve himself, a qualified relative, or another person in any financial transaction involving the property with its current owner as that would then be a violation of the following section of the Cambridge Ethics Code:

(i) Use of prestige of office.

1. An official or employee subject to this section may not intentionally use the prestige of office or public position for the private gain of that official or employee or a qualified relative or the private gain of another.

Having used his “public position” as a commission member and making a decision about the zoning of the property would then prevent him from seeking “private gain of that official ... or a qualified relative or the private gain of another” as it relates to the current owner of the property.

If, however, there is an intervening sale of the property whereby the current owner sells the property to a third party independent of any involvement by Mr. Cooke in that transaction, and thereafter Mr. Cooke or a qualified relative is interested in purchasing the property, he must first bring the intention to purchase to the attention of the Cambridge Ethics Commission by seeking an Advisory Opinion approving the purchase before engaging in any negotiations to purchase the subject property.

APPROVED this 6<sup>th</sup> day of May, 2013 by a vote of 2-1.



Stephen W. Rideout, Chair  
Cambridge Ethics Commission

THE COMMISSION REQUESTS THE CLERK OF THE CITY OF  
CAMBRIDGE TO PLACE THIS OPINION ON THE WEBSITE OF THE CITY  
OF CAMBRIDGE AND MAKE COPIES AVAILABLE TO THE PUBLIC  
WHEN REQUESTED.