

July 14, 1999
Re: IO-99-132

This letter will summarize the substance of a conversation we had in my office this morning, which you requested. You indicated that you work in the permit office of the Department of Planning and Code Enforcement, and that your specific duties involve critical areas permitting. You indicated that you are considering the purchase of a lot in order to build a home and you expressed specific concerns about possible ethical issues that might be associated with your plans. While we agreed that you have the same rights to purchase property and build a home, as any other citizen of the county, you acknowledged the importance of avoiding any perception of conflict of interest in the way you proceed on this project. The specific issues you raised, and the solutions you proposed and to which I agreed are summarized as follows:

1. The lot you want to purchase is located in a critical area, and the county employees who issue permits for critical area matters are under your supervision. You suggested that permitting decisions can be made by members of other divisions, over whom you exert no authority. I agreed that this approach seems acceptable.
2. You have in the past, considered permit requests from the current owner of the lot that you want to purchase. Since these decisions occurred in the past, and since you are unaware of any current business your department has with this owner, there is no present conflict of interest if you negotiate with the owner as to the asking price for the lot. You indicated that you would avoid participating in any permitting issues with this person in the future, should such issues come up. I indicated that this solution would be acceptable.
3. You would like to do some of the building work yourself, although you would not attempt any of the plumbing, electrical or other specialized work for which a license would be required. The work you plan to do personally will also be subject to inspection, and as long as employees subject to your supervision are not inspecting your work, there should be no problem. Of course, you will be expected to comply with all building codes and other building laws and regulations.
4. You may need to seek a variance from existing building requirements. As a county citizen, you are entitled to pursue any legal procedures available as long as you scrupulously follow the same procedures required of all other applicants in similar situations. And again, inspections and recommendations cannot be made by any person subject to your supervision.
5. One of the engineers that you are considering for your building project is an engineer that does business with your agency. It is hard to imagine your being able to find a contractor who is qualified to design or build on property in critical areas that does not do business with PACE. You also indicated that this engineer has been a long-time personal friend. I advised you that under §3-106, you could not accept this person's services at a discounted price, but that you can contract with this person at a price that is within the range of the fair market value for these services. You suggested that you could obtain other bids for the same project, to ensure that the engineer of your choice would be asking a reasonable amount for his services. I believe this

suggestion to be an excellent one; however, you are not required to obtain additional bids, as long as you can justify the amount of any contract that you do execute.

It is clear to me that you have put considerable thought into the ethical issues involved in this potential purchase. Please remember that this advice is very general and is based upon a situation that is highly speculative at this point. You did state that you will request further specific advice as needed. Thank you for your inquiry.

Sincerely,

Betsy K. Dawson
Executive Director