

September 11, 2001

Re: IO-01-118

You inquired whether you may engage in secondary employment as a home inspector while you are employed by the county as a combination inspector for the Department of Inspections and Permits. In your current county position, you inspect new residential and commercial construction for compliance with the county code. As a home inspector, you would be inspecting homes on behalf of a potential home buyer or seller, for defects in construction, water and termite damage, and the condition of appliances, heating equipment, roofing material and other house components.

By House Bill No. 379, adopted in the last legislative session, the state enacted fairly comprehensive licensing requirements for the home inspectors. When the law takes effect, home inspectors may be required to obtain licenses from the State Commission of Real Estate Appraisers and Home Inspectors.¹ They must meet certain qualifications and their licenses may be revoked by the Commission for a variety of infractions. The state law requires that a home inspector provide a written report to the customer, and specifies the information that must be in the report, including specific disclaimers, the inspector's license number, and other matters.

The county government is not involved in the regulation of the home inspector profession, and the home inspector has no involvement with the department of inspections and permits. The county agency for which you work must inspect new buildings before a Certificate of Occupancy may be issued, but older homes are not subject to county inspections. As an inspector, you would not be involved in repair work which may be subject to county inspection.

Since there are no apparent connections between the department of inspections and permits and the home inspection business, the ethics commission advises that you may engage in secondary employment as a home inspector, subject to certain conditions. You may not be employed by, or work as an independent contractor for, any person or entity that is subject to the authority of your department, whether your home inspection work is in the county, or in another jurisdiction. You may not inspect any new buildings projects that are subject to any county issued permit, or that will or may require any type of inspection through your department. Finally, you may list your credentials and work history in any advertising material that you produce except that you may not use your county job title in any promotional material.

Thank you for your inquiry. Please call if you have any further questions.

Sincerely,

Betsy K. Dawson

¹ The law specifically exempts from the licensing requirement, an individual "employed as a building code enforcement official by the state or a political subdivision of the state, while acting within the scope of that employment." §16-3A-01(b)(1), Business Occupations and Professions Article, Subtitle 3A, Annotated Code of Maryland (2000 Replacement Volume).

Executive Director