

March 18, 2002
Re: IO-02-24/25

You inquired whether and to what extent you may participate in legislative action involving the Annapolis Neck Small Area Plan that will soon be introduced as a bill before the county council. You stated that you do a significant amount of business with a developer who will be affected by a possible amendment to that bill. Specifically, you anticipate that an amendment to the Small Area Plan will be requested by the contract purchaser who is seeking a mixed use designation for the property in question. If the mixed use amendment is approved and the plan is enacted, the contract purchaser and the developer will be partners in the resulting mixed use project. In all likelihood, you will be issuing significant building insurance policies for the project.

The ethics commission agrees with your conclusion that participation in legislative action on this amendment would constitute a conflict of interest. Sections 3-102(a) and 3-102(b)(2)(i) and (ii) prohibit your participation since you have a "close economic association" with an enterprise that would be affected by your vote on the amendment. A close economic association is defined in §3-102(b)(1)(iii), as an entity for which a council member is an agent. Since you are the long-standing insurance agent for the developer, you meet this description.

You have also asked whether you may participate in the consideration and vote on the overall small area plan. Since the bill has not yet been introduced, and since there is no information about the number of amendments that will be proposed to the bill, the ethics commission does not have enough information to respond definitively to your question. In many instances, disqualification as to one portion of proposed legislation does not disqualify the council member from participating in the rest of that legislation. At this point, the commission can only advise that your participation in legislative activity on the overall plan will depend upon the relative importance of the mixed use amendment to the overall plan. Once the bill has been introduced, the ethics commission will be glad to provide you with more definitive advice on your question.

Thank you for your inquiry. I apologize for not responding sooner, but when bill 08-02 was withdrawn, I incorrectly assumed that your inquiry was moot. This error was mine alone since I did not present your inquiry to the ethics commission at that time. I hope that the delay has not caused you any inconvenience.

Sincerely,

Betsy K. Dawson
Executive Director