

October 9, 2003

Re: IO-03-86

You inquired whether you may continue to participate as a member of the planning advisory board in a specific matter involving a development that will impact the community in which you live, and for which you serve as the president of the community association. The ethics commission advises that you may not participate in this matter.

Two provisions of the Public Ethics Law are relevant to your inquiry. Section 3-105(b)(2) prohibits an employee, including a member of the PAB, from holding any employment relationship that would impair the impartiality or independent judgment of the employee. As the president of your community association, you have a fiduciary duty to represent the association and to promote its best interests. As a member of the PAB, you have a duty to represent the interests of the county as a whole. If there is the possibility that your community objects to the development that is being considered by the PAB, your ability to act with impartial and independent judgment will be impaired, or at the very least, will appear to be impaired.

Section 3-105(c)(1) prohibits an employee from assisting or representing any person in connection with a matter in which the county has an interest, except in the course of your official duties. As president of your community association, you do represent your community in a matter in which the county has an interest. The county's interest and the community's interest may be adversarial- it may be in the best interests of the county to support a development to which any particular community might object.

Enclosed is a copy of AO-99-17, an opinion which addresses a very similar issue. For the reasons set forth in this letter, and in that opinion, the ethics commission advises that you may not participate in any planning advisory board activity involving this development. Participation includes asking questions, discussing, deliberating, or voting on the matter. Thank you for your inquiry.

Sincerely,

Betsy K. Dawson  
Executive Director