

March 10, 2004
Re: IO-04-20

You inquired whether you may serve on the host committee for an upcoming art show and fundraiser to be held by a group of artists to raise money for the South Arundel Citizens for Responsible Development (SACReD). Members of the host committee are being asked to contribute \$250 to the event or to raise that amount from friends, or both. In addition to supporting SACReD, the donations will cover the costs of the event.

SACReD is a private non-profit organization that among other things, regularly appears before the county council to express its views about zoning and development issues in south Anne Arundel County. Although it is not a registered lobbyist, SACReD does communicate with county officials for the purpose of influencing legislative and perhaps executive branch actions.

The ethics law does not prohibit you from serving on this committee, although there would be some restrictions on your participation. Section 5-107, which prohibits the intentional use of the prestige of your office for the gain of another, would prohibit you from using your title, or permitting others to use your title on behalf of this event or this organization. Section 5-106, regulating the solicitation of gifts, would prohibit you from soliciting donations from a registered lobbyist, or to facilitate the solicitation of a lobbyist by another person. Also, this provision would prohibit your from targeting “controlled donors” in your solicitation efforts. See, IO-00-123. Controlled donors include people doing or seeking to do business with the county, people regulated or controlled by the county council, or people whose interests may be affected by the performance or non-performance of your duties. §5-106(b).

Although you may serve on this committee, your participation may create the appearance of improper influence should you subsequently be called upon to consider legislation in which SACReD takes an active position. The ethics commission has previously advised, based on the predecessor provision to current §5-104(a), that employees could not serve on operational boards of private organizations when the interests of those organizations may conflict with the county’s interests. See, AO-99-197, 98-50, and 98-39. The ethics commission has also previously advised that county council members sitting on the operational boards of non-profit organizations could not participate in legislation that would affect those organizations in a substantial or material way. While you will not be sitting on the operational board and would therefore have no fiduciary obligation to SACReD, an appearance of partiality may be created by your financial support of and fund raising efforts for this very visible political advocacy group.

The ethics commission advises that the ethics law does not prohibit you from serving on the host committee for the art and fundraising event subject to the limitations set forth in this letter. However, in view of the legislative policy set forth in §1-102(a)(2) of avoiding “even the appearance of improper influence”, the commission advises that your participation on the host committee could create an appearance of improper influence.

Sincerely,

Betsy K Dawson
Executive Director