

April 26, 2007

By Electronic & Interoffice Mail

Re: AO-07-34

You inquired whether, as a member of the county council, you may participate in legislative activity with regard to a proposed amendment to Bill 13-07, which bill adopts a zoning map for the Annapolis Neck area of the county. The entity requesting the proposed amendment is the Annapolis Council of the Knights of Columbus. You have inquired about this matter because you are a member of the Sacred Heart Council of the Knights of Columbus. The ethics commission advises that you may not participate in the discussion or vote on the amendment, but you may participate and vote on other amendments and on the bill as amended.

The Knights of Columbus is an organization that describes itself as a “volunteer force of 1.7 million members.”¹ Membership is open to practical² Catholic men, 18 years of age or older. It is both a fraternal organization and a non-profit insurance company with authorized insurance agents. You have indicated that while you are an insurance agent, you are affiliated with another company; you are not an authorized agent for the Knights of Columbus.

A person joins the Knights of Columbus by joining a local council, which may be incorporated or unincorporated. Although local councils are self-governing, there is frequent interaction among various councils in a geographical area, including joint participation in meetings and activities. Each local council “reports” to a district council, which reports to a state council, which reports to the international headquarters -the supreme council. Like any corporation, the supreme council operates through a board of directors and corporate officers. Each local council pays a nominal yearly per capita tax to the parent organization and additionally provides reports on the number of volunteer man-hours contributed by the members and the amount of money that was contributed to charities. The national organization does not get involved in local issues, such as this potential zoning legislation request. Its primary contribution to the local councils seems to involve promoting a variety of social and charitable programs to be undertaken by the local councils, if they choose to do so.

As a fraternal organization, the Knights of Columbus promotes family, church, and community. As a business entity, it sells insurance and engages in fund raising and volunteer work on behalf of various charitable causes. It represents that it is in the top 5% of insurance companies in North America.

The relevant provision of the ethics law is §7-5-101(a)(2)(ii), which is made applicable to this issue by §7-5-110(c)(5). The first section states:

¹ The information about the Knights of Columbus came primarily from its website at www.kofc.org and links that are provided through this site. An employee of the international corporate headquarters of the Knights of Columbus provided additional information.

² A practical Catholic is described as “one who is in union with the Holy See and who practices the precepts of the Catholic Church.”

§ 7-5-101. Restrictions on participation.

(a) Generally. Except as otherwise provided in this article, **an employee may not participate in a matter if:**

(1) the employee or a qualifying relative of the employee has an interest in the matter distinguishable from that of the public generally and the employee knows of the interest; or

(2) **any of the following is a party to the matter:**

(i) a business entity in which the employee has a financial interest of which the employee reasonably may be expected to know;

(ii) **a business entity of which any of the following is an officer, director, trustee, partner, limited partner, member,** or employee: the employee, or if known to the employee, a qualifying relative of the employee; . . .

A “business entity” is defined in the ethics law at §7-1-101(2). It is taken verbatim from the State Ethics Law, and it means “a person engaged in business, whether profit or nonprofit, regardless of form.” Md. Code Ann., State Gov’t, § 15-102(e) (1995). The ethics commission concludes that the Knights of Columbus is a business entity, as an insurance company and as a fraternal organization that engages in charitable fund raising and other activities. This conclusion is consistent with the interpretation of the term “business entity” as applied by the State Ethics Commission and affirmed by the Court. *See, Carroll County Ethics Comm’n v. Lennon*, 119 Md. App. 49, 53-54 (1998).

The ethics commission also concludes that members of local councils of the Knights of Columbus are members of the parent organization as well as the specific council to which they belong. The Knights of Columbus has a set of core values and positions that it holds in common with its local councils and local councils are encouraged to participate in its various programs and activities. This conclusion is supported by the Knights of Columbus website which refers to its membership of 1.7 million.

The ethics commission also concludes that the Knights of Columbus is a party to a proposed amendment to Bill 13-07, since the proposed amendment is being introduced at the request of a local council. According to *Black’s Law Dictionary* (6th ed. 1990), “parties” means:

The persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance, or who are actively concerned in the prosecution and defense of any legal proceeding.

The Knights of Columbus is also considered a “party to the matter” under the reasoning used by the ethics commission in AO-00-02 and AO-98-39, as having a direct interest in the outcome of the legislation. In the former opinion, the commission advised that a member of the county council was barred from participating in legislation where a bus company client of the council member’s insurance business would be impacted by the legislation. The commission advised:

The insured school bus company can be considered a party to the matter, because it will be directly affected by the outcome of the legislation in a specifically defined way. While the entity is not a named party, the ethics commission does not believe that the law should be so narrowly construed as to require this legalistic interpretation. The State Ethics Commission, interpreting a law similar to the county's ethics law has stated that to be involved as a party requires more than a general interest, but would include involvement in "some specified and clearly defined role; the entities would have to be identified as parties to a transaction and likely to be impacted by the transaction in the usual legal sense of the term." *See*, State Ethics Commission Opinion, 80-17, COMAR, 19A.

For these reasons, the ethics commission advises that §7-5-101(a)(2)(ii) prohibits you from participating in legislative activity concerning a proposed amendment to Bill 13-07 since you belong to the Knights of Columbus, which is a party to the matter. Although you must abstain from participating in this particular amendment, you may participate and vote on other amendments to Bill 13-07 that will not particularly affect the Knights of Columbus. You may also vote on the final bill as amended.

Thank you for your inquiry. Please call if you have additional questions.

Anne Arundel County Ethics Commission

By: _____
Betsy K. Dawson, Executive Director