



ETHICS COMMISSION
ANNE ARUNDEL COUNTY

September 7, 2007

By Electronic Mail Only

Re: AO-07-61

You inquired whether you may co-sign a building permit application on behalf of the Presbytery of Maryland, a private organization that holds title to several local churches.¹ One of the churches is seeking to expand its facilities. Although you are not a member of this particular church, you serve on the board of trustees of the Presbytery. You are also the chief of traffic engineering in the department of public works. The ethics commission advises that you may not sign the application, and if the traffic engineering division is asked to provide input into this application, you may not participate in that review.

Section 7-5-104(a) prohibits an employee from assisting or representing a person (or entity) before a governmental unit or employee of the county, or in any matter in which the county has an interest. Both these prohibitions are applicable to the situation you described. While these prohibitions do not apply to an employee who applies for a building permit on the employee's own behalf, the ethics law prohibits county employees from acting in a representational capacity before county agencies. The ethics law also prohibits an employee from assisting a person in any matter in which the county has a potentially adversarial or competitive position with regard to that person. The rationale for these prohibitions is that county employees have an advantage, or at least a perceived advantage, in dealing with other county employees- they have easy access to other employees, familiarity with departmental procedures, and in many cases, knowledge of information that many county residents do not have.

In your particular case, it occasionally happens that a building permit will be submitted for review to the traffic engineering division. While applications are not routinely routed through your division, in instances where proposed building may affect traffic or sign locations, the office of planning and zoning will submit these plans to the traffic engineering division for its comments.

¹ You indicated that according to the Presbytery, the building permit application requires six signatures. The standard commercial building permit application only requires one signature, and there are no other building-related county permits that require six signatures. While your organization may require six signatures, it is not required by the county.

Section 7-5-101(a)(2) of the ethics law, prohibits an employee from participating in any matter in which a party to the matter is an entity in which the employee serves as a trustee, officer, director, partner, or holds another significant position. A trustee has a fiduciary duty to promote the best interests of the entity. A county employee has a duty to promote the county's best interests. Since the interests of the Presbytery and the county may not be the same, your participation in both capacities is prohibited. Even if you do not sign the permit application, you may not participate in any review of the application.

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

The Anne Arundel County Ethics Commission

By: _____
Betsy K. Dawson, Executive Director