



**ANNE ARUNDEL COUNTY  
ETHICS COMMISSION**

September 9, 2008

*By Electronic Mail Only*

Re: I-08-53

You inquired whether you may engage in secondary employment as a forester for property owners outside of the county. You have recently been hired by the county as a forester in the department of inspections and permits. The ethics commission advises that you may continue your outside employment, subject to the limitations described in this letter.

You stated that in your current county position, you review vegetation management plans for code compliance. These plans are permits that are required for homeowners to remove or trim trees and other woody vegetation in the critical area. You also prepare forest mitigation plans for which the county is responsible.

You are also a forester, licensed by the State of Maryland. You were previously self-employed as a consulting forester. You worked for various clients, writing forest management plans, performing tax inspections, and drafting submittals for development plans and other environmental studies and projects.

The ethics law provision that is pertinent to your first inquiry is §7-5-102(a), which prohibits a county employee from having a contract with any person or entity that is subject to the authority of an employee's agency, that is negotiating or has entered into a contract administered by the employee's agency, or that is a subcontractor on a contract with the county that is administered by the employee's agency. In order to ensure that your secondary employment complies with this provision, you must affirmatively determine that any clients with whom you contract have no contracts or subcontracts with the county that involve your agency. You must also ensure that your clients are not subject to the authority of the department of inspections and permits. Should any of your clients become subject to the authority of your agency, or become contractors or subcontractors in matters involving your department, you will have to terminate your contracts with those clients. For that reason, you may want to include some provision for this contingency in your private consulting contracts.

You also asked whether you may continue to serve on the Agricultural Advisory Board, a position to which you were appointed by the county executive prior to accepting your county position. The commission advises that you may continue to serve on the board, also subject to certain limitations.

The county's agricultural preservation program, codified in Article 17, Title 10 of the Anne Arundel County Code, began in 1991, with the purpose of preserving agricultural and

woodland property in the county. Toward that end, property owners who meet the minimum criteria of the program may apply to sell the development rights on the property to the county in perpetuity. The application is processed according to certain regulations and procedures. At the end of the process, the county, by the planning and zoning officer, may offer to purchase the development rights for a percentage of the appraised fair market value of the property, based on pre-established formulas.

The application process for an easement is handled by the agricultural preservation board (“the board”), the staff of the planning and zoning office, and ultimately, the planning and zoning officer. As to any particular application submitted, §17-10-206 (b)(1) provides that the county executive “shall determine . . . the appropriate terms and conditions for any agreement to purchase an easement in accordance with the requirements set forth in this subtitle or in other applicable provisions of law.”

Once a property is subject to an easement, the property may not be subdivided for commercial or residential uses (except for family conveyances) for a period of ten years. In exchange, a county real property tax credit is given to the landowner. The contract between the county and the property owner acknowledges the right of the county to enforce the easement restrictions and to otherwise monitor the operations on that property.

The county's agricultural preservation program is administered by the agricultural program administrator, an employee of the department of recreation and parks. The administrator works with the board, an advisory board created by ordinance, pursuant to state law. See, Maryland Code, Agriculture Article, Title 2, §2-504.1, and the Anne Arundel County Code, Article 17, Title 10, §17-10-202.

The board's responsibilities as set forth in §17-10-202(a) of the county code, are:

- (1) to advise the County concerning the establishment of County agricultural districts and purchases of easements by the County;
- (2) to assist the County government in reviewing the status of County agricultural districts and land under easement;
- (3) to advise the County concerning County priorities for agricultural and woodland preservation;
- (4) to promote preservation of agriculture within the County by fostering such activities as a farmers' market and by offering information and assistance to farmers concerning establishment of County agricultural districts and the purchase of easements;
- (5) to make recommendations to the County Executive concerning budget and appropriation requests;

- (6) to recommend the delineation of areas of productive agricultural land in the County;
- (7) to recommend procedures concerning the determination of values of easements;
- (8) to review and make recommendations to the County concerning proposed regulations for State and County agricultural districts;
- (9) to prepare and review recommendations to the County concerning County policies and programs for agricultural and woodland preservation;
- (10) to seek the advice of and cooperate with the Agricultural Extension Service, the Soil Conservation District and the State foresters in carrying out its responsibilities; and
- (11) to perform other, duties as may be assigned by the County Council or County Executive.

In previous opinions, the ethics commission has advised that the provisions regarding secondary employment, §§7-5-102 through 104 generally apply only to those activities that are outside of the county government. See, [IO-02-146](#), [IO-00-194](#). In the latter opinion, the ethics commission advised that:

there is nothing in the charter suggesting that the PAB is an independent body. On the contrary, the PAB is an advisory body that is expected to promote the county's interests from the perspective of the voting citizens of the county. For this reason it is not, for the purposes of the ethics law, a secondary employer for county employees. Since it is not secondary employment, there are no ethics issues of secondary employment to be considered, and a part-time employee of the police department may serve on the PAB.

The reasoning set forth in that opinion applies equally to your situation. The agricultural preservation board is an advisory body and it is expected to promote the county's interests. It is not a secondary employer. For this reason, your employment in the department of inspections and permits does not prevent your continued participation on the board. However, you should be aware that under the non-participation provisions of §7-5-101, you may not participate in any matters for the board, in which you previously prepared any type of forest management plan as a private consultant.

Subject to these limitations, you may continue to engage in private forestry contracts and you may also continue to serve on the agricultural preservation board.

Thank you for your inquiry. If you have any other questions, please call the ethics commission office.

The Anne Arundel County Ethics Commission

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By: \_\_\_\_\_  
Betsy K. Dawson, Executive Director