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Letter was sent on
July 20, 1988

July 12, 1988



Case Number 88078.A

CONFIDENTIAL

Dear [redacted]

On July 12, 1988 the Board of Ethics issued an advisory opinion concerning the outside employment activities of *employees* in *this* department. The *employees* hold part-time positions as real estate agents. *The* concern was that their responsibilities in the City department might unfairly be used in their outside activities as real estate agents. Specifically, the *employees* work without direct supervision and have access to confidential information concerning the status of property [redacted]

Four sections of the Ethics Ordinance apply to this case. Section 26.2-8 of the Ethics Ordinance states:

- (a) No employee shall make or participate in the making of any governmental decision with respect to any matter in which he has an economic interest distinguishable from that of the general public.
- (c) Any employee who has a financial interest in any matter pending before any City agency shall disclose the nature of such interest to the Board of Ethics and if the matter concern's the employees own agency he shall disclose it to the head of that agency.



This Section is interpreted to mean that no *employee* may participate in the decision-making or inspection of property in which her or his real estate company maintain an economic interest. This section prohibits a City *employee* from *dealing with* property he is commissioned to sell. Further, pursuant to the Ordinance an *employee* commissioned to sell property currently subject to *the work of* your department must disclose his interest in the property to our office and to *the* Commissioner of your - department.

Section 26.2-5 states:

No employee or the spouse or minor child of them shall solicit or accept any money or other thing of value including but not limited to, gifts, favors, services or promises of future employment in return for advice or assistance on matters concerning the operation or business of the City.

No City *employee* in the course of his outside employment may give advice or assistance resulting from knowledge he received as a *City employee*.

Section 26.2-6 of the Ethics Ordinance states:

"No employee shall engage in or permit the unauthorized use of City property."

This section applies to those employees using City telephones, office equipment, etc. to further their real estate activities. This practice is not authorized by *that* department. Therefore, the employees must be put on notice that use of City equipment for non-City business is a violation of the Ethics Ordinance.

Section 26.2-2 states:

Employees shall at all times in the performance of their public duties owe a fiduciary duty to the City.

A fiduciary relationship is interpreted to mean that an employee must act for the benefit of the City at all times. Therefore, when an employee is on City time and works to benefit his personal interests he breaches the fiduciary relationship and violates the Ethics Ordinance. Employees must be

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put on notice that their first priority is to the City and that no other business may be engaged in on City time.

The Board recommends that *the employees are informed* of sections 26.2-8, 26.2-5, 26.2-6, and 26.2-2 of the Ethics Ordinance. Please advise *the employees* to avoid even an appearance of impropriety. Activities that are technically permissible sometimes appear improper and cause the public to question their faith in City government.

Also, pursuant to section 26.2-8 distribute a copy of the "Disclosure of Pending Interests Before a City Agency" form to all *employees*, attached herein. They must list all properties they are commissioned to sell in the course of their outside employment that are currently pending *before the City dept.* This form must be updated regularly.

Be advised that pursuant to section 26.2-22 of the Ethics Ordinance the Department of [REDACTED] may establish guidelines that are more restrictive than the Ethics Ordinance.

Thank you for your attention to the Ethics Ordinance. Please contact our staff if you have further questions about this or any other case.

Sincerely yours,


S. Brandzel
Chairman