

ADVISORY OPINION NO. 91-07
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON MARCH 7, 1991

GOVERNMENTAL BODY SEEKING OPINION

A County Assessor's Office

OPINION SOUGHT

Whether it is a violation of the Ethics Act for a real estate agent who owns part of a real estate company to be employed by the County Assessor's Office as an appraiser for the County's reappraisal project?

FACTS RELIED UPON BY THE COMMISSION

A County is instituting a property reappraisal program. The purpose of this program is to reappraise property for tax purposes.

A clerk in the County Assessor's Office has applied for the position of Chief Appraiser-Supervisor for the new reappraisal program. This individual has been employed by the Assessor's office for twenty three years. Her position currently includes acting as transfer clerk, secretary, computer operator and mapper.

Further, she is a licensed real estate agent with a 33% interest in a real estate company located in the County and serves as the Vice-President of this company.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-1-2(c) states in pertinent part that...certain conflicts of interest are inherent in public service...when such conflict becomes personal to a particular public official or public employee, such person should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.

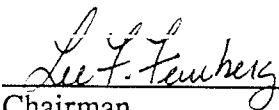
ADVISORY OPINION

In considering this request, the Ethics Commission has analyzed the facts presented and the pertinent statutory provisions that are now contained in the Ethics Act. The Commission has determined that there is nothing contained within the Ethics Act as it is currently written which would prohibit a real estate agent who owns part of a real estate company to be employed by the County Assessor's Office as an appraiser for the County's upcoming reappraisal project.

However, the real estate agent, if hired as a County appraiser should be mindful of subsection 6B-1-2(c) of the Ethics Act which provides that a public employee should seek to be excused from deciding or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter that has become "personal to her". The Commission considers a matter to be "personal" when the public employee has any pecuniary interest either directly or indirectly in the matter, is affected in a manner which may influence her vote or would give the appearance of impropriety.

Specifically, if the public employee is hired as the County appraiser, she should **not** appraise any property where her real estate company is involved or has any direct or indirect financial interest.

Furthermore, subsection 6B-2-5(e) of the Ethics Act provides that a present or former public employee may not knowingly and improperly disclose any confidential information acquired by her in the course of her official duties nor use such information to further her personal interests or the interests of another person.



Chairman