

May 28, 2008

TO: SUPERVISOR FEINER

FROM: GREENBURGH BOARD OF ETHICS

CC: Greenburgh Town Board
Greenburgh Town Clerk

OPINION 2008-2

Background

Mr. Feiner on May 27, 2008, acting on behalf of the Town Board, requested an advisory opinion regarding whether the Town Board should appoint as Town Energy Conservation Outreach Coordinator an individual whose spouse is an environmental builder, and who has a financial interest in the spouse's environmental construction firm. The individual in question will be a part time contractor with the Town, not a regular employee. The individual will receive a stipend, but no fringe benefits. The individual will be supervised by the Energy Conservation Coordinator of the Town and will be primarily responsible for the organizing of energy conservations fairs and other public outreach activities.

Opinion

The Board of Ethics commends the Town Board for bringing this issue to its attention. The general ethical concern in a situation like this is two fold. First, there is the issue of the proper use of public office. Those who work for and represent Town government must not use their position or influence for personal or familial financial gain. The second dimension of the ethics issue is public trust and the perception or appearance of conflict of interest or misuse of office. Because the official duties of the Energy Conservation Outreach Coordinator could put that individual in a position to benefit the business interests of a spouse in the environmental contracting business, it is appropriate to be sensitive to these two issues, and it incumbent upon us to be vigilant under the Town Ethics Code.

That said, however, the Board of Ethics sees no inherent reason why the individual under consideration by the Town Board for appointment should be prohibited from this position. Indeed, such a background and such family relationships could well enhance the ability of this individual to function effectively in the position of Energy Conservation Outreach Coordinator.

It is the opinion of the Board of Ethics, therefore, that making this appointment would not be in violation of the Town Code of Ethics, providing that the following four conditions are met:

1. The spouse's environmental construction firm will not enter into contracts (or other financial arrangements) with the Town of Greenburgh, or with any other entity (such

- as Districts) whose members are appointed by the Town Board, during the tenure of this individual as Environmental Conservation Outreach Coordinator.
2. The individual appointed must not have his or her name or likeness used as part of any advertising for the spouse's firm, and should not appear on that firm's website.
 3. The individual appointed as Environmental Conservation Outreach Coordinator should be required to file annual financial disclosure information pursuant to section 570-8 of the Town Ethics Code.
 4. The individual appointed as Environmental Conservation Outreach Coordinator agrees not to promote or recommend to members of the public any particular firm or business related to that individual's official duties or areas of responsibility and influence, including the spouse's firm. Referring citizens to general sources of information in response to inquires, such as listings of contractors maintained by independent trade associations, and the like, is permissible. It shall be the responsibility of the Environmental Conservation Coordinator and other supervisors to monitor compliance with this agreement.

No opinion is expressed herein as to whether this appointment would be in conformity with the code of ethics if any of the facts upon which this advisory opinion is based were to change.

BY THE BOARD OF ETHICS

Adopted at May 28, 2008 Meeting

Voting for:

Mr. Jennings

Mr. McLaughlin

Mr. Robinson

Mr. Sigal

Not present:

Mr. Bunting