

Commissioner's Corner Continued

THE PENNSYLVANIA ETHICS ACT Submitted by Commissioner Silberstein, 1st Ward

As your elected Commissioner for Ward 1, I take very seriously the oath of office that was administered to me in which I swore to faithfully uphold the laws of the Commonwealth of Pennsylvania. Likewise, I am sure that my fellow Commissioners strive to administer Pennsylvania's laws, and York Township's ordinances, in a fair and impartial manner. In addition to our oath of office and our individual sense of probity, our actions as elected officials are governed and overseen by the Pennsylvania Ethics Commission.

This Commission of the Commonwealth administers the Pennsylvania Public Official and Employee Ethics Act, Act 170, which first became effective January 1, 1979, and provides that public office is a public trust and that any effort to realize personal financial gain through public office is a violation of that trust. The Act was passed to strengthen the faith and confidence of the people of the Commonwealth in their government. The Act established the State Ethics Commission to administer and enforce the provisions of the Act and to provide guidance regarding the standards established by the Act.

The State Ethics Law requires that all candidates for public office and all elected office holders annually file Statements of Financial Interest to disclose any potential financial conflicts of interest. These disclosure forms are kept on file for five years. The Ethics Commission also renders prospective advisory opinions to present or former public officials and public employees, or their appointing authorities or employers, regarding such individuals' duties and responsibilities under the Ethics Act. Additionally, the Ethics Commission is charged with investigating alleged violations of the Ethics Act and issuing decisions in relation to those investigations, and holding hearings, taking testimony, issuing subpoenas, and compelling the attendance of witnesses.

One of the primary duties of the Ethics Commission is to discourage conduct by elected officials that constitutes, or creates the appearance of, a conflict of interest. A conflict of interest is defined as use by a public official (or public employee) of the authority of his office (or employment) or any confidential information received through holding public office or employment for the **private pecuniary benefit** of himself, a member of his immediate family, or a business with which he or a member of his immediate family is associated. "Conflict" or "conflict of interest" does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation, or other group which includes the public official or public employee, a member of his immediate family, or a business with which he or a member of his immediate family is associated.

The penalties can be severe should the Ethics Commission find that an elected official has engaged in conduct which rises to the level of a conflict of interest. **Violations are felonies and can result in a fine up to \$10,000 and/or imprisonment for not more than five years.**

Recently, in the course of my duties as a York Township Commissioner, I was threatened by a party appearing before the Board of Commissioners with an ethics investigation. The facts are uncomplicated: A local developer sought to develop a parcel of land, and the BOC was charged with conducting a hearing and voting on that proposed land use action. My home adjoined the parcel in question, as did the homes of more than 100 other York Township residents. Thus, I was in a "class" with other "adjoiners" of the parcel, and in a "sub-class" with other owners of single family homes whose property adjoined the parcel. No action that I would have taken as a Commissioner would have benefited me or my family any more than it would have benefited 100 of my neighbors.

However, the developer threatened to file an ethics complaint if I did not refrain from voting on the matter before the BOC. Given the threat of a felony conviction and a huge fine and possible imprisonment if I took a misstep, I decided to proceed with great caution. I hired at my own expense an attorney experienced in Ethics law and sought an "Advice" opinion from the Ethics Commission. The Ethics Commission advised me that if the facts were as I represented them, I would not be viewed as having any conflict of interest.

However, the developer persisted in his threat, and I was faced with mounting out-of-pocket legal bills to defend a perfectly legitimate decision on my part. I was elected to represent the citizens of York Township, specifically those residing in the First Ward, and yet I was being forced out of the decision-making process. Even though I had no doubt that I was acting in accordance with the Ethics Act, it would have cost me thousands of dollars of my own money to defend myself in an Ethics Commission investigation that would have put my freedom, and my family's fiscal welfare in jeopardy. With great regret, and significant anger, I recused myself from participating further in that land use case.

The PA Ethics Law is a good piece of legislation assuring that your elected representatives are conducting the business of York Township in a manner consistent with the laws of the Commonwealth. We all lose when developers and their attorneys frivolously use the Ethics Act as a club to bludgeon elected officials who are trying their best to make York Township a good place to live.

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