

*Ethics lights the way
to good government*

The Ethical Times

A Publication of the New York City Conflicts of Interest Board
Clare Wiseman, Editor



Owning Property

By
Bre Injeski

Question: I heard that the City of New York’s conflicts of interest law prohibits City employees, like myself, from doing business with any City agency. I own a 2-family residential property in the City. I live on the first floor and rent out the second. I pay the City’s Department of Finance for my property taxes and pay the City’s Department of Environmental Protection for water and sewer utilities. Am I also going to have to pay the City’s Conflicts of Interest Board for violating the conflicts law?

Answer: You’re right that the City’s conflicts of interest law prohibits the City’s full-time public servants from doing business with any City agency. But, don’t worry. From what you’ve said, it sounds like you’re on the right side of the conflicts of interest law. Which is a good thing, since the maximum fine the Conflicts of Interest Board (COIB) can impose recently went up to \$25,000 for each violation.

It’s commonly understood that business dealings are transactions with the City involving the sale, purchase, rental, or exchange of any goods, services, or property and any license, permit, grant or benefit issued by the City. Lesser known is that the definition of “business dealings with the City” explicitly excludes any transaction involving a public servant’s residence. Moreover, COIB has determined that owning real estate, without more, does not constitute business dealings with the City. You live in the home you own. So, your ownership interest is subject to the residence exception of the conflicts of interest law, provided you don’t do anything more than every other private residential property owner in the five boroughs, like pay property taxes and a water and sewer bill.

What “more” would a public servant have to do to break out of the safe harbor? The above-referenced law more precisely restricts full-time City employees and officials from having an ownership interest (or a position) in a firm that is engaged in business dealings with any City agency. Like most people, you consider yourself the king of your

castle, not the CEO of your firm. Be that as it may, COIB has determined that a firm includes an individual seeking business on his own behalf. For example, let’s say the City pays you rent for your second-floor apartment. This would constitute you seeking business with the City and, thus, “more” than merely owning real estate in the City.

The above example isn’t quite as uncommon as you might think. Every month, the City cuts rent checks to landlords throughout the City who rent apartments to recipients of public assistance or federal Section 8 funds. But the COIB has said that, generally, it is ok for City employees to rent apartments they own to recipients of public assistance and Section 8 with two provisions. First, the rental property must have fewer than eight units. Second, the City employee cannot work in the unit or division of the City agency administering their tenant’s rent subsidies (you know who you are HRA, HPD and NYCHA employees) without obtaining their agency’s approval.

Since we’re on the topic of tenants, don’t rent your second floor to anyone at your City job who is your superior or your subordinate. The reason is that the conflicts of interest law does not allow any type of business or financial relationship between superiors and subordinates.

If you have any doubt at all about whether your action would create a conflict of interest, call COIB at 212-442-1400 and ask for the “attorney of the day.” You can also e-mail us through our website (<http://www.nyc.gov/ethics>) by clicking on “Contact COIB.” All calls and e-mails are confidential, and you may contact us anonymously. You should also ask your agency’s personnel or counsel’s office about your own agency’s rules, which may be stricter than the COIB rules.

*Bre Injeski is the Deputy Director of Enforcement at the
New York City Conflicts of Interest Board.*

Recent Enforcement Cases

▶ A DOE teacher paid an \$1,800 fine for accepting a laptop as a gift from the parents of students in her class. After telling the parents that she would no longer be able to communicate with them after school hours by email because her computer was not working, the parents bought her the gift. In her disposition the teacher admitted that she used the laptop for both City and non-City purposes. By accepting a gift from those over whom she had influence in her City position, she violated the City's conflicts of interest law. In addition to paying the \$1,800 fine, the teacher relinquished the laptop to her school.

▶ A Senior Information Technology Manager at the New York City School Construction Authority paid a \$200 fine for, on one occasion, asking an SCA vendor with which she interacted in her City job to buy advertising in a brochure for a symposium she was helping to plan as a volunteer for a not-for-profit organization. The vendor did not purchase the ad. The City's conflicts of interest law prohibits public servants from attempting to use their City position for their personal benefit, including by soliciting charitable donations from a vendor that has or could reasonably be expected to have matters before them at their City job. In determining the amount of the fine, the Board took into consideration: 1) the fact that no purchase took place; and 2) that the solicitation, while a violation, was not an attempt to accrue any benefit to the employee personally.

▶ A DOE Assistant Principal paid a \$7,000 fine – \$6,000 to DOE and \$1,000 to the Board – for hiring her brother's company to cater events at her school and personally authorizing payment to his company of a total of \$7,443.75 in DOE funds. In deter-

mining the amount of the fine, the Board took into consideration that, while her actions constituted a misuse of position, there was no evidence that her brother's company was either over-paid or paid for services not rendered, and there was no evidence that she personally benefited from this misconduct.

▶ A NYCHA employee was suspended by NYCHA for using her position as an Interviewer in the Human Resources Department to put her daughter into the NYCHA hiring stream for two separate positions, bypassing standard NYCHA procedures. Despite her attempt to garner an advantage for her daughter, the daughter was not hired. The Conflicts of Interest Board accepted NYCHA's disciplinary penalty of a three-week suspension, valued at \$2,532, as sufficient to address the Interviewer's Chapter 68 violations.

▶ A NYPD Detective paid a \$200 fine and forfeited one day of annual leave for using NYPD letterhead in a personal letter he wrote for his landlord to present as evidence as the landlord attempted to fight a Sanitation summons. The Detective also signed the letter with his NYPD title and squad number. The City's conflicts of interest law prohibits City employees from using City letterhead for any non-City purpose and from using their City position to obtain an advantage for a person with whom they are "associated," in this case the Detective's landlord. In determining the amount of the fine, the Board took into consideration that there was no evidence the Detective benefited personally from this misuse of position and letterhead.



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*Interested in more information?
Get in touch with COIB's Training & Education Unit to arrange a class in Chapter 68 for you and your staff.*

*Contact Gavin Kendall, at
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A searchable index of all the COIB Enforcement Dispositions and Advisory Opinions is available courtesy of New York Law School here:

<http://www.nyls.edu/cityadmin/>