

the Ethical Times

Paws-itive Community Board Service

By Roy Koshy

Since I've been conducting my ethicist work from home, I've been able to spend more time with my cats. One of my cats, Mittens, is a member of my local Community Board, so I decided to interview her about how a Board member carries out their duties while adhering to the conflicts of interest law. She did not disappoint, enjoy!

Hi Mittens, thank you for sitting down to talk with me.

My pleasure, and thank YOU for keeping my fed and housed during this very unique epoch we find ourselves living in.

Now, in addition to being my beloved pet, you are also a member of your local Community Board. How has it been carrying out Board duties during this pandemic?

Well, much like everyone else, we have transitioned to virtual meetings to conduct our business. It's funny, I've been musing on that Texas attorney who had the cat filter on his Zoom call during a virtual civil forfeiture hearing, and how he kept proclaiming, "I'm not a cat." When I first joined the Board, I found myself proclaiming, "I AM a cat! Really! I'm an actual cat!!"

That must have been a challenge for your fellow Board members!

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Ha ha! It was at first, but now we get along great. Perhaps we all unconsciously embraced Hegel's axiom "What is rational is actual and what is actual is rational."

That's great to hear! Now, can you tell us what a Community Board member does?

Absolutely. In a nutshell, Community Boards are the appointed advisory groups of the community districts of the five boroughs. Board members vote on myriad issues such as land use and zoning, participation in the City budget, and service delivery for their community. Community Board members are considered part-time public servants for the City of New York.



And as part-time public servants, Board members are bound to the conflicts of interest law as set forth in the City Charter, correct?

Indeed, and it's very important to keep in mind that we have been selected because we have interests in our community, so it is imperative that our Community Board service and private interests do not conflict and that the integrity of the Community Board as a whole is intact. In navigating this terrain, I often reflect on what Junius said: "The integrity of men is to be measured by their conduct, not by their professions."

Very insightful, as well as a great transition into discussing what Community Board members can and cannot do under the conflicts of interest law.

If you don't mind, I'd like to constrain our discussion to the most important aspect of Community Board service: voting. A full-some examination of the entirety of the conflicts of interest law and how it applies to ALL aspects of Board service would merit a longer discussion and my book club is meeting in a few minutes.

By all means.

The overall rubric for Community Board members concerns three activities: Disclosure, Discussion, and of course Voting. Community Board members cannot vote on any matter in which there may be an economic gain to them, their close relative (their spouse, for example), or any party with whom they're financially associated. Allow me to serve as an example: I'm a Board member, but I also own a cat café and bookstore in my district. Should I pursue a liquor license at some point, I would be prohibited from voting on that license at the Board. Now, I'm permitted to *discuss* my li-

cense with my fellow members, but I'm required to first *disclose* my café ownership before entering into any discussion with them.

You mentioned not voting on a matter if it directly implicates the interest of yourself or someone with who you are "associated." What does that mean?

That is an excellent question! Under the conflicts of interest law an "associate" is a sibling, parent, child, spouse, or domestic partner; anyone with whom you have a financial relationship, like a client, employer, debtor, landlord, business partner; any not-for-profit on whose board you sit; or, if you are employed by a not-for-profit, any donor that provides more than 10% of the not-for-profit's budget.

Wow, you really know these laws inside and out.

I attended one of the COIB's training sessions on this topic. It was very good.

Thank you. I'll let my boss know. Is the intention here to maintain integrity not only for the public, but for fellow Board members as well?

Correct, as well as transparency. I believe it was Tao Zhu Gong who said, "Comradeship and trust will emerge naturally when discipline and high standards are enforced."

So this conduct is very clear in regards to you, a business owner. Now let's say that I, a City employee, wanted to join my Community Board. Would this be possible, and if so what am I allowed to do?

Yes, it is possible, but an employee of a governmental or quasi-governmental entity is prohibited from voting on matters that in-

volve the agency that employs them. For instance, a DOE employee cannot vote on matters involving DOE. However, much like with my café/bookstore, they are allowed to *discuss* those matters, but only after they *disclose* their DOE employment.

Now, if I could just anticipate your next question, which, indubitably will be, “what is a governmental or quasi-governmental entity?” This is an excellent question, and here’s the answer: any government agency, whether state, federal, or local; the UN; the Post Office; state and local public authorities; charter schools; the Queens and Brooklyn Public Libraries; all public universities in the United States; and local development corporations.

What would you say to those Community Board members who are involved in the non-profit world?

First, I would say that I am one of you! I founded a non-profit that donates brand new furniture to other cats to use as scratching posts. And as Cicero said in regards to friends, I see my colleagues in non-profit work as a “second self” in giving back to the community. That being said, whether one is a salaried employee of a non-profit or holds an unpaid position on the board of directors, it’s considered a position and therefore the same rules regarding *voting, disclosure, and discussion* apply.

Is it possible for a Community Board member that has the kinds of conflicts we’ve discussed to serve on a committee?

Of course! However, a Community Board member cannot chair a committee if they

would encounter three or more conflicts of interest in 12-month period.

About Chairing...?

I’m sorry, but my book club is about to start and I’m leading the discussion of “Gravity’s Rainbow”. There are other important aspects of the conflicts of interest law a Community Board member should know, though. Perhaps you could direct people to this link: <https://www1.nyc.gov/site/coib/the-law/frequently-asked-questions.page>

Well, this has been very helpful and informative. Any last thoughts?

When I think of the conflicts of interest law, I reflect on Dostoevsky’s words from “The Brothers Karamazov”: “I can see the sun, but even if I cannot see the sun, I know that it exists. And to know that the sun is there - that is living.” The law is here to guide us in maintaining the integrity of our individual service and of the Community Board as a whole. Furthermore, the Conflicts of Interest Board offers advice – or should I say sunlight? – to Community Board members for any questions they may have.

Thank you for your time today, Mittens.

My pleasure. See you at dinner.



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Recent Enforcement Cases

Misuse of City Resources. A Special Officer at the New York City Department of Health and Mental Hygiene ("DOHMH") created a fake parking placard with the DOHMH Police shield and displayed it in his personal vehicle on one occasion to avoid receiving a parking ticket. In doing so, the Special Officer used the DOHMH Police shield for a non-City purpose, in violation of City Charter Section 2604(b)(2) and Board Rules Section 1-13(b). In a joint disposition with the Board and DOHMH, the Special Officer agreed to pay a \$750 fine.

- He drove to and attended ABC meetings before the end of his NYCHA workday on five occasions; and
- He used his NYCHA vehicle to drive to an ABC meeting on one occasion.

A few of these incidents took place after the Director was advised not to use any City resources or City time for an outside position.

The Director paid a \$13,000 fine to the Board.

Misuse of City Resources & Misuse of City Time. The Director of Next Generations Operations at the New York City Housing Authority ("NYCHA") is assigned a NYCHA vehicle and NYCHA E-ZPass to use for official NYCHA business. He is permitted to use the NYCHA vehicle, but not the E-ZPass, for commuting; he is required to reimburse NYCHA for any accidental toll charges. Over the course of five years, the Director used his NYCHA E-ZPass to pay for \$8,912.42 in toll charges during his commute, which he failed to reimburse to NYCHA. In doing so, the Director used a City E-ZPass for a non-City purpose, in violation of City Charter Section 2604(b)(2) and Board Rules Section 1-13(b).

The Director also served as an unpaid Chair of Jersey City's Board of Alcoholic Beverage Control ("ABC") and as an unpaid board member of the Jersey City Employment and Training Program ("JCETP"). He used NYCHA resources and NYCHA time to perform work for these outside positions, in violation of Charter Section 2604(b)(2) and Board Rules Sections 1-13(a) and 1-13(b), as follows:

- He used his NYCHA email account to send or receive a total of 91 emails related to his work for ABC and JCETP, 35 of which he sent during his NYCHA work hours;

A [searchable index](#) of all the COIB Enforcement Dispositions and Advisory Opinions is available courtesy of New York Law School.

THE PUBLIC SERVICE PUZZLER

Congratulations to the winner of our recent Public Service Puzzler, **Katie Miller** of TLC, who, besides knowing a thing or two about Batman, has a deep love for horror movies.



In this month's [contest](#), we're serving up an ethics-themed crossword! Submit your solution by **Friday, March 5th**.