

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-21

Approved: March 25, 2025

Re: The Honorable Paul Santucci

QUESTION PRESENTED:

The Petitioner, a legislator serving as a member of the Rhode Island House of Representatives, a state elected position, requests an advisory opinion regarding whether he may, in his official capacity, participate in General Assembly discussions and voting relative to potential legislation pertaining to the construction of a large industrial park in his district, and publicly express his support for the potential construction of the industrial park, given that the industrial park's developer is his landlord.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a legislator serving as a member of the Rhode Island House of Representatives, a state elected position, is prohibited, in his official capacity, from participating in General Assembly discussions and voting relative to potential legislation pertaining to the construction of a large industrial park in his district, given that the industrial park's developer is his landlord. However, the Petitioner is not prohibited, in his private capacity and without the use of any resources or confidential information made available to him as a member of the House of Representatives, from publicly expressing his support for the construction of the industrial park.

The Petitioner is a legislator serving as a member of the Rhode Island House of Representatives, having been elected to that position in November 2024. The Petitioner states that he represents District 53, which includes the towns of Smithfield and Glocester. The Petitioner further states that he resides in the Town of Smithfield and that, in his private capacity, he owns a financial planning business located in the Town of Lincoln. The Petitioner represents that the landlord of his office space in Lincoln is planning to develop a major industrial park in Smithfield. The Petitioner explains that the industrial park is expected to be 300 acres in size and will require a substantial infrastructure investment, given that the planned location does not currently have roads or access to natural gas, electricity, sewer, or water. He notes that the proposed industrial park location is within the so-called "Economic Growth Overlay Zone," an area that is already approved for such a use. The Petitioner states that he has not been involved in the project. However, he represents that his landlord has asked whether the Petitioner would be willing to express

his support of the potential development in the Petitioner's legislative district. Cognizant of the Code of Ethics, and desirous of acting in conformance therewith, the Petitioner seeks guidance from the Ethics Commission regarding whether he may, in his official capacity, publicly express his opinion relative to the potential industrial park development which may include, but not be limited to, discussing the matter with members of the press or others in the community, and potentially participating in General Assembly discussions and voting on legislation that may arise relative to the anticipated development of the industrial park.

Under the Code of Ethics, a public official shall not have any interest, financial or otherwise, or engage in any business, employment, transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties or employment in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if a public official has reason to believe or expect that he, any person within his family, his business associate, or any business by which the public official is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). Additionally, a public official is prohibited from using his public office or confidential information received through his public office to obtain financial gain for himself, his family member, his business associate, or any business by which he is employed or which he represents. § 36-14-5(d). Further, a public official must recuse from participation when his business associate appears or presents evidence or arguments before his state or municipal agency. 520-RICR-00-00-1.2.1(A)(2) Additional Circumstances Warranting Recusal (36-14-5002).

A business associate is defined as "a person joined together with another person to achieve a common financial objective." R.I. Gen. Laws § 36-14-2(3). A person is defined as "an individual or a business entity." § 36-14-2(7). The Ethics Commission has previously and consistently determined that a landlord and tenant are considered business associates under the Code of Ethics. See In re: Luis Aponte, Complaint No. 2016-13 (Providence City Council member's landlord was his business associate, and the city council member's vote to amend the city's zoning ordinance relative to his landlord's property violated § 36-14-5(a) & (d)). See also A.O. 2013-10; A.O. 2012-22; A.O. 2011-44; A.O. 2011-36; A.O. 2006-9; A.O. 2005-49; A.O. 2002-70; A.O. 2001-57; and A.O. 98-16.

Here, the Petitioner and the industrial park's developer are in a landlord/tenant relationship, and are therefore business associates. Thus, the Petitioner is prohibited by the Code of Ethics from participating, in his official capacity as a state legislator, in General Assembly discussions and/or voting in matters that will directly financially impact his landlord or the anticipated industrial park development. These actions may include, but are not limited to, drafting, introducing, discussing, or voting on legislation directly financially impacting the anticipated industrial park development or the Petitioner's landlord. Prohibited actions would also include any use of the Petitioner's office to publicly comment upon, support, or oppose the industrial park development or legislation related thereto. Currently, there is

no such legislation pending before the General Assembly. Thus, the Ethics Commission's advice herein is general in nature. Accordingly, if and when a specific piece of legislation is introduced, the Petitioner is advised to either recuse or seek further guidance from the Ethics Commission. Recusal shall be consistent with the provisions of R.I. Gen. Laws § 36-14-6.

However, the Code of Ethics does not prohibit the Petitioner, in his private capacity and without the use of any resources or confidential information made available to him as a member of the House of Representatives, from publicly expressing his support for the development, including but not limited to discussing the matter with members of the press or others in the community.¹

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-7(a)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

Related Advisory Opinions:

A.O. 2022-8

A.O. 2013-10

A.O. 2012-22

A.O. 2011-44

A.O. 2011-36

A.O. 2006-9

A.O. 2005-49

A.O. 2002-70

A.O. 2001-57

¹ See, e.g., A.O. 2022-8 (opining that a member of the Bristol Zoning Board was not prohibited in her private capacity from participating in various activities related to a proposed mill redevelopment in that town, to which she was an abutter, including but not limited to co-signing letters to the planning board and the town council and writing letters to the editor of the local newspaper regarding the redevelopment).

A.O. 98-16

Other Related Authority:

In re: Luis Aponte, Complaint No. 2016-13

Keywords:

Business Associate

Recusal