

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-33

Approved: April 29, 2025

Re: The Honorable K. Joseph Shekarchi

QUESTION PRESENTED:

The Petitioner, a legislator serving as a member of the Rhode Island House of Representatives, a state elected position, who in his private capacity is an attorney licensed to practice law in Rhode Island, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from participating in General Assembly discussions and voting on proposed legislation that seeks to establish procedures that would make certain larger parcels of land available for subdivision in order to increase the availability of housing in Rhode Island, subject to conformance with applicable local municipal requirements, given that he previously represented a client for whom the legislation, if passed, could potentially create opportunities for development on land owned by the former client.

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, who in his private capacity is an attorney licensed to practice law in Rhode Island, is not prohibited by the Code of Ethics from participating in General Assembly discussions and voting on proposed legislation that seeks to establish procedures that would make certain larger parcels of land available for subdivision in order to increase the availability of housing in Rhode Island, subject to conformance with applicable local municipal requirements, notwithstanding that he previously represented a client for whom the legislation, if passed, could potentially create opportunities for development on land owned by the former client.

The Petitioner is a legislator serving as a member of the Rhode Island House of Representatives, representing District 23 in Warwick. Originally elected in 2012, he has served continuously since. The Petitioner is currently serving his third term as Speaker of the House, having first been elected to that position by his House colleagues in January 2021. In his private capacity, the Petitioner is an attorney licensed to practice law in Rhode Island. He focuses his practice on zoning and land use permitting, real estate closings, underwriting legal work, business formations, personal injury, and administrative hearings.

The Petitioner represents that on February 27, 2025, he and several other House representatives introduced Bill Number H 5799 (legislation) that seeks to amend existing legislation to establish procedures that would make certain larger parcels of land available for subdivision in order to increase the availability of housing in Rhode Island. The Petitioner further represents that the legislation, if passed, would expand the ability of cities and towns throughout the state to more readily permit subdivisions of large parcels for housing construction, provided that the proposed subdivisions conform to all other applicable municipal requirements. The Petitioner explains that the legislation has already been considered and approved by the House Municipal Government and Housing Committee, and is soon expected to be presented for consideration by the full House.

The Petitioner states that, in 2021, he represented a private client who had applied for a residential zone change in the City of Cranston that would have allowed the client to construct eight new houses on land that he owned, rather than construct only four houses as allowed under the city's ordinance. The Petitioner further states that, although the local planning board returned a favorable decision for his client and issued master plan approval, either the city council ultimately denied the application, or the application was withdrawn after significant opposition. The Petitioner represents that he and his client then parted ways. The Petitioner explains that their attorney-client relationship existed only for that one case, which lasted for about one year. The Petitioner adds that the former client paid his legal fees in full, and that there is no anticipated future business relationship between them. The Petitioner states that, although the pending legislation could potentially create opportunities for development on the land owned by his former client, the Petitioner's review of the city assessor's plat map indicates that will most likely not be the case. The Petitioner adds that, even if the pending legislation were to pass, resulting in the opportunity for the development of land owned by his former client, any application submitted by the former client would necessitate an independent analysis by the city in order to determine compliance with the relevant municipal requirements for development. Cognizant of the Code of Ethics, committed to acting in conformance therewith, and out of an abundance of caution, the Petitioner seeks guidance from the Ethics Commission regarding whether he may participate in General Assembly discussions and voting on the proposed legislation.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, that 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 public official will have an interest which is in substantial conflict with the proper discharge of his duties or employment in the public interest if it is reasonably foreseeable that a direct monetary gain or a direct monetary loss will accrue, by virtue of the public official's activity, to the public official, or any person within his family, or any business associate, or any business by which he is employed or which he represents. R.I. Gen. Laws § 36-14-7(a). A public official is further prohibited from using his public office, or

confidential information received through his public office, to obtain financial gain for himself, any person within his family, his business associate, or any business by which he is employed or which he represents. § 36-14-5(d). 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).

The Ethics Commission has consistently recognized an attorney-client relationship as a business association for purposes of the Code of Ethics and has, on multiple occasions, required a public official to recuse from participating in matters directly affecting his business associate, or in which his business associate was to appear before the official’s public body. See, e.g., A.O. 2007-54 (opining that a member of the Smithfield Zoning Board of Review was prohibited from participating in a matter in which the zoning board would be sitting as the Smithfield Board of Appeals, given that the petitioner had an ongoing attorney-client relationship with one of the attorneys representing the appellants in the matter); A.O. 2010-47 (opining that the Middletown solicitor was prohibited from participating in the consideration by the town’s zoning board and planning board of a petition for a special use permit, given that one of the petitioner’s private law clients had been retained to provide information and testimony in support of the permit application).

However, while the Code of Ethics clearly prohibits a public official from participating in matters directly affecting a current business associate, the Ethics Commission has permitted a public official to participate in matters involving or impacting a *former* business associate, assuming no other conflicts were present. In determining whether a relationship between two parties constitutes an ongoing business association, the Ethics Commission examines, among other things, whether the parties are conducting ongoing business transactions, have outstanding accounts, or whether there exists an anticipated future relationship between the parties. For example, in Advisory Opinion 2021-11, a member of the State Housing Appeals Board was not prohibited from participating in a matter before the board in which the appellant was represented by legal counsel who had once provided legal services to the petitioner. There, the petitioner represented that the attorney-client relationship between her and the subject attorney had ended five years prior, that the attorney had been paid in full for the services he had provided to her, and that she did not anticipate any occasion for which she might require that attorney’s services in the future. See also A.O. 2013-21 (opining that a member of the State Labor Relations Board, a private attorney, was not required to recuse from matters involving his former law client provided that the representation had concluded, that all outstanding legal fees had been paid in full, and that there was no reasonable likelihood of reestablishing an attorney-client relationship in the foreseeable future); A.O. 2007-5 (opining that a Smithfield Town Council member’s prior attorney-client relationship with an individual who had sought legal advice from the petitioner related to the individual’s property that abutted the Slacks Reservoir Dam did not prohibit the petitioner from participating in the town council’s consideration of a matter related to the release of funds to repair the dam, given that the

attorney-client relationship, during which the client had not been charged, had ended more than a year prior with no plans for future representation).

Here, the business associate relationship between the Petitioner and his former law client has ended for purposes of the Code of Ethics. The Petitioner states that he represented the former client in 2021 for about one year, that the former client paid his legal fees in full, and that there is no future business relationship anticipated between them. Accordingly, based on the facts as represented, the applicable provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from participating in General Assembly discussions and voting on the proposed legislation described herein, notwithstanding that his former client could potentially be impacted by the passage of the legislation.

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)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-7(a)

Related Advisory Opinions:

A.O. 2021-11

A.O. 2013-21

A.O. 2010-47

A.O. 2007-54

A.O. 2007-5

Keywords:

Business Associate