

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-52

Approved: September 9, 2025

Re: Carol Mossa

QUESTION PRESENTED:

The Petitioner, an alternate member of the Charlestown Planning Commission, a municipal elected position, requests an advisory opinion regarding whether, upon recusal, she may attend and speak at public hearings before the planning commission regarding a proposed development on two parcels of land located across the street from her personal residence.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, an alternate member of the Charlestown Planning Commission, a municipal elected position, may, upon recusal, attend and speak at public hearings before the planning commission regarding a proposed development on two parcels of land located across the street from her personal residence.

The Petitioner is an alternate member of the Charlestown Planning Commission, having served in this position since her initial election in 2022.¹ The Petitioner represents that before the planning commission, sitting as the local review board pursuant to R.I. Gen. Laws § 45-53-1et seq.,² is a matter involving the proposed development of two parcels of land located across the street from the Petitioner's personal residence. The Petitioner explains that there is a commercial building located on one of the parcels and that the other parcel is vacant. The Petitioner further explains that the owner of the two parcels is proposing to merge them and develop 11 housing units, six of which would be designated as low- and moderate-income housing units.

¹ Pursuant to § 40-2 of the Code of the Town of Charlestown, members of the planning commission are to "be elected at large on a nonpartisan basis."
<https://ecode360.com/8490141?highlight=commission&highlight=planning&searchId=7127285978753694#8490143> (last visited September 2, 2025).

² This chapter is known as the "Rhode Island Low and Moderate Income Housing Act."

The Petitioner represents that Charlestown residents rely on water wells and septic systems. She believes that the town does not currently have the infrastructure to welcome the additional housing units. The Petitioner represents that she would be directly financially impacted by the proposed development. She states that she will recuse, and has already filed a recusal form, from planning commission discussions and decision-making relative to the proposed development. The Petitioner would, however, like to speak at public hearings before the planning commission relative to the proposed development and seeks guidance from the Ethics Commission regarding whether she may do so.

Under the Code of Ethics, a public official may not participate in any matter in which she has an interest, financial or otherwise, that is in substantial conflict with the proper discharge of her duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A public official will have an interest in substantial conflict with her official duties if she has reason to believe or expect that a “direct monetary gain” or a “direct monetary loss” will accrue, by virtue of the public official’s activity, to herself, any person within her family, her business associate, or any business by which she is employed or which she represents. R.I. Gen. Laws § 36-14-7(a). Further, a public official is prohibited from using her position or confidential information received through her position to obtain financial gain, other than that provided by law, for herself, any person within her family, her business associate, or any business by which she is employed or which she represents. § 36-14-5(d).

Most applicable to the facts presented by this Petitioner, the Code of Ethics also prohibits a public official from representing herself, or authorizing another person to appear on her behalf, before a municipal agency of which she is a member. § 36-14-5(e)(1); 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016). However, the Code of Ethics contains a public forum exception which provides that a public official may publicly express her own viewpoints in a public forum on any matter of general public interest or on any matter which directly affects her, her spouse, or dependent child. 520-RICR-00-00-1.2.3 Public Forum Exceptions (36-14-7003) (Regulation 1.2.3).

In past advisory opinions, the Ethics Commission has advised public officials about their rights under the public forum exception. In Advisory Opinion 2018-43, for example, the Ethics Commission opined that a New Shoreham Town Council member could, upon recusal from town council discussions and voting, address the town council and/or other town boards regarding a development on a property that directly abutted his residence, provided that he did not receive access or priority not available to any other member of the public. That petitioner was further cautioned that he could not use his position in any way to influence members of the town council and/or members of other town boards and that he must recuse from participation and voting on the matter. See also A.O 2017-11 (opining that the chairperson of the North Providence Historic District Commission (HDC) could address the HDC during its application review concerning a property abutting her residence, provided the petitioner did not receive access or priority not available to any other member of the public); A.O. 2006-37 (opining that a member of the Smithfield Town

Council could, upon recusing from participation as a member of the town council, provide public comment as an abutter regarding a zone change petition filed on behalf of a limited liability company which proposed to construct condominiums on the subject property); A.O. 2005-16 (opining that a member of the Narragansett Town Council could, upon recusal, attend and provide public comment at meetings of the town council regarding a change of zone request where he was an abutter).

Consistent with these prior advisory opinions, and pursuant to the public forum exception found at Regulation 1.2.3, it is the opinion of the Ethics Commission that the Petitioner may address the planning commission as a member of the public regarding the proposed development of the parcels located across the street from her residence, provided that the Petitioner does not receive access or priority not available to any other member of the public. The Petitioner is further cautioned that she may not use her position in any way to influence members of the planning commission. Finally, based on the facts represented herein, it is our opinion that the Petitioner should recuse, as she has appropriately stated she intends to, from participating and voting on this matter as a planning commission member. Notice of recusal must be filed consistent with the provisions of R.I. Gen. Laws § 36-14-6.

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, agency policy, ordinance, constitutional provision, charter provision, or canon of judicial or professional ethics may have on this situation.

Code Citations:

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-5(e)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

520-RICR-00-00-1.2.3 Public Forum Exceptions (36-14-7003)

Related Advisory Opinions:

A.O. 2018-43

A.O. 2017-11

A.O. 2006-37

A.O. 2005-16

Keywords:

Public Forum Exception

Property Interest