

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2026-14

Approved: May 5, 2026

Re: Doug McLean, AICP

QUESTION PRESENTED:

The Petitioner, the director of planning and development for the Town of Coventry, a municipal employee position, who in his private capacity works as a planning consultant, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from continuing to: (1) perform his official duties relating to the appeal of a recent planning board decision approving an application for the Village at Tiogue; and/or (2) work in his private capacity as a planning consultant.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, the director of planning and development for the Town of Coventry, who in his private capacity works as a planning consultant, is not prohibited by the Code of Ethics from continuing to: (1) perform his official duties relating to the appeal of a recent planning board decision approving an application for the Village at Tiogue; and/or (2) work in his private capacity as a planning consultant consistent with the provisions outlined herein.

The Petitioner is the director of planning and development for the Town of Coventry, having been appointed to that position by the town manager almost three years ago. He identifies among his public duties the following: overseeing planning department staff; facilitating departmental acceptance and processing of planning applications; conducting administrative reviews and drafting staff reports to offer guidance on planning applications; communicating with applicants, applicant team members, other municipal staff, planning commission members, project abutters, and other interested parties; facilitating meetings of the technical review committee and providing staff support to meetings of the planning commission; and drafting agendas and minutes for the technical review committee and planning commission, among other town boards. The Petitioner states that his regular work hours are from 8:30 a.m. to 4:30 p.m., Monday through Friday. He adds that he regularly attends planning commission meetings several evenings per month.

The Petitioner represents that he recently provided a staff report and recommendation to the planning commission relating to a development proposal known as the Village at

Tiogou, a 162-unit preliminary plan and comprehensive permit application (collectively, the application) proposed by 232 Realty Associates/Robert DeBlois (Mr. DeBlois). The Petitioner further represents that the application was approved by the planning commission on January 28, 2026. The Petitioner explains that an appeal of the planning commission's decision was timely filed by both Mr. DeBlois¹ and a group of approximately one dozen abutters to the subject property and is currently pending in the Rhode Island Superior Court. The Petitioner informs that his public duties during the appellate process will include providing information and access to documents to the town's solicitor.

The Petitioner states that in his private capacity he performs planning work on a consultant basis which includes the provision of expert reports and testimony on behalf of, or in opposition to, construction and development projects. He explains that he has performed this work as a sole proprietor for private clients since 2018 and for municipalities since 2010. The Petitioner represents that the most common type of consulting work that he does involves assisting homeowners with additions or major construction projects to their house or property which trigger the need for zoning relief in front of a local municipal board. He further represents that his consulting work also includes planning guidance and analysis on behalf of developers seeking local development approvals, as well as planning guidance and analysis on behalf of abutters or neighborhood groups seeking local development denials.

The Petitioner states that he performs his private consulting work outside of his regular work hours for the town and without the use of public resources. The Petitioner further states that his private consulting work has never taken place, or impacted a property or application, within a municipality by which he was or is employed; therefore, he has not been required, nor is he required now, to appear before his own municipal agency or any other agency in a municipality employing him, including Coventry, as part of his private employment. The Petitioner informs that, in his time as a private consulting planner, he has never had a client who was actively or previously before him in his public capacity or who had a reasonable expectation of appearing before him in his public capacity. The Petitioner further informs that he does not use his public position to solicit business or customers for his private consulting work. He represents that in his time as a municipal planner, he has not provided guidance or otherwise acted on an application in his public capacity in which the applicant was an active or previous client, had a reasonable expectation of becoming a client, or was a family member. The Petitioner further represents that he has never used, nor would he ever use, his public position or authority to obtain or share confidential information as a means to aid his private interests to realize private financial gain for himself, any member of his family, or any client or business associate.

¹ The Petitioner explains that Mr. DeBlois' appeal relates to a component of the bond associated with the project.

The Petitioner states that certain abutters to the proposed Village at Tiogue who have filed an appeal of the planning commission's recent approval of the Village at Tiogue application have alleged that the Petitioner should have recused from participation in that matter in his public capacity in light of the private consulting work in which he engages, and further alleged that the Petitioner has a business associate relationship with the applicant, Mr. DeBlois. The Petitioner further states that the same abutters have suggested that the Petitioner should not engage in private planning consulting work while simultaneously serving as the town's director of planning and development during the pendency of the Village at Tiogue application, including all appeals. The Petitioner explains that this suggestion is likewise based on the allegation that he and Mr. DeBlois are business associates. The Petitioner emphasizes that he has never had, nor does he reasonably expect to have, a financial relationship with Mr. DeBlois, any DeBlois-associated company, or with anyone else on the Village at Tiogue applicant team including, but not limited to, the attorneys and staff from Adler, Pollock & Sheehan, DiPrete Engineering, and Crossman Engineering. The Petitioner adds that he has never interacted with Mr. DeBlois or any DeBlois-associated company other than in his public capacity. It is under this set of facts that the Petitioner seeks advice from the Ethics Commission regarding whether he is prohibited by the Code of Ethics from continuing to: (1) perform his official duties relating to the appeal of the recent planning board decision approving the application for the Village at Tiogue; and/or (2) work in his private capacity as a planning consultant.²

Performance of Official Duties

The Code of Ethics provides that a public official shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity which is in substantial conflict with the proper discharge of his duties in the public interest. § 36-14-5(a). A public official has an interest which is in substantial conflict with the proper discharge of his duties in the public interest if he has reason to believe or expect that he, any person within his family, his business associate, or any business by which he 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). Further, § 36-14-5(d) prohibits a person subject to the Code of Ethics from using his public office, or confidential information received through his holding 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. 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). Also, § 36-14-5(c) prohibits the use of and/or disclosure of

² The Petitioner has represented to Ethics Commission staff that he understands that advisory opinions are based on prospective conduct only and that this advisory opinion will not address the Petitioner's prior conduct in either his public or private capacity.

confidential information acquired by a public official during the course of or by reason of his official duties, particularly for the purpose of obtaining financial gain.

In past advisory opinions, the Ethics Commission has required a public official to recuse from consideration of a matter if it impacted an individual or entity with which the official had an ongoing business relationship, or if such an individual or entity appeared before the official's public body. See A.O. 2016-45 (opining that a member of the Tiverton Planning Board was prohibited from participating in the planning board's discussions and voting relative to a matter in which her business associate appeared as an expert witness, given that they had worked together professionally in the past on projects, often referred work and clients to each other, and would continue to refer work and clients to each other).

Here, the Petitioner represents that he has never had, nor does he reasonably expect to have, a financial relationship with Mr. DeBlois, any DeBlois-associated company, or with anyone else on the Village at Tiogue applicant team including, but not limited to, the attorneys and staff from Adler, Pollock & Sheehan, DiPrete Engineering, and Crossman Engineering. Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from continuing to perform his official duties relating to the appeal of the planning commission's approval of the Village at Tiogue application.

Continued Work in Private Capacity

Pursuant to R.I. Gen. Laws § 36-14-5(b), no person subject to the Code of Ethics shall accept other employment that will either impair his independence of judgment as to his official duties or require or induce him to disclose confidential information acquired by him in the course of, and by reason of, his official duties. The Ethics Commission consistently has opined that persons subject to the Code of Ethics are not inherently prohibited from holding private employment that is secondary to their public positions, provided that the employment would neither impair their independence of judgment nor create an interest in substantial conflict with their public duties, and subject to certain other restrictions. The Ethics Commission examines several factors when considering potential conflicts regarding private employment. These factors include, but are not limited to, the nexus between the official's public duties and desired private employment; whether the public official completes such other work outside of his normal public service hours and without the use of public resources; whether the public official is required to appear before his own agency as part of his private employment; whether such other work is to be conducted outside of the areas over which the public official has decision-making jurisdiction in his public capacity; and whether the public official uses his public position to solicit business or customers for his private position. See General Commission Advisory No. 2009-4.

The Ethics Commission regularly has allowed public officials and employees to engage in secondary private employment that was outside of their official public jurisdiction. For

example, in Advisory Opinion 2006-17. The Ethics Commission opined that a lieutenant with the East Providence Police Department could apply for a private investigator's license and operate said business in the City of East Providence. However, the following conditions were imposed: (1) the petitioner could have no involvement with matters subject to the East Providence Police Department's official jurisdiction; (2) he could not disclose any confidential information that he obtained in the course of his employment with the police department; (3) he could only perform such work on his own time and without the use of public resources, including law enforcement databases; (4) he could not use his position as a police officer to obtain clients or private work; and (5) he could not accept any cases or perform any work within the City of East Providence for as long as he was employed by that city's police department). See also A.O. 2016-16 (opining that an environmental health food specialist for the Rhode Island Department of Health was not prohibited from working on her own time and in her private capacity as a food safety consultant for food establishments in Connecticut and/or Massachusetts because the petitioner's public employment was limited to regions within Rhode Island and her private consulting work would occur outside of the state; therefore it was unlikely that she would be performing consulting services in her private capacity where she performed inspections in her public capacity, leading the Ethics Commission to determine that the petitioner's private employment would be neither in substantial conflict with her duties in the public interest nor impair her independence of judgment as to her public duties.

Here, because the Petitioner's public employment is limited to the Town of Coventry, and the Petitioner states that his private consulting work has never taken place or impacted a property or application within the municipality by which he was or is employed, there is no indication that the Petitioner's continued private employment would be in substantial conflict with his duties in the public interest or impair his independence of judgment as to his public duties. Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from continuing to work in his private capacity consistent with the provisions outlined herein.

Summary

In consideration of the facts as represented, and consistent with the applicable provisions of the Code of Ethics, prior advisory opinions issued, and the analysis herein, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from continuing to perform his official duties relating to the appeal of the planning commission's approval of the Village at Tiogue application, or from continuing to work in his private capacity consistent with the provisions outlined herein. Finally, this advisory opinion cannot anticipate every situation in which a conflict of interest might arise and, thus, provides only general guidance as to the application of the Code of Ethics based on the facts represented herein. The Petitioner is advised to remain vigilant about identifying potential conflicts of interest and to either recuse or seek further guidance from the Ethics Commission in the future as warranted.

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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:

§ 36-14-2(3)
§ 36-14-2(7)
§ 36-14-5(a)
§ 36-14-5(b)
§ 36-14-5(c)
§ 36-14-5(d)
§ 36-14-7(a)

Related Advisory Opinions:

A.O. 2016-45
A.O. 2016-16
A.O. 2006-17
G.C.A 2009-4

Keywords:

Business Associate
Conflict of Interest
Private Employment