

ADVISORY OPINION 89-24

ISSUED BY THE  
WEST VIRGINIA ETHICS COMMISSION

ON NOVEMBER 2, 1989

GOVERNMENTAL BODY SEEKING OPINION

Virginia , City Attorney for City of West

Opinion Sought

Is it a violation of the Act for city employees who have rental property to apply for and receive Rental Rehabilitation Grants?

Other Facts Relied Upon By The Commission

Several city employees own rental property and in the past have received and/or requested to receive Rental Rehabilitation Grants under the U.S. Department of Housing and Urban Development. The West Virginia Housing Development Fund then grants the money to the City Office of Housing and Community Development who administers the program. The employees have in the past received waivers under the Department of Housing and Urban Development Regulations which govern the Rental Rehabilitation Program.

Pertinent Statutory Provisions Relied Upon By The Commission


West Virginia Code, Chapter 6B, Article 2, Section 6(d) states "...no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract with the governmental body over which he or she has direct authority or with which he or she is employed..."

Federal Register 511.11 (e) states no person: (1) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or state recipient (or of any designated public agencies) that receives rental rehabilitation grant amounts and who exercises or has exercised any functions or responsibilities with respect to assisted rehabilitation activities

or (2) who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. HUD may grant an exception to this exclusion on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Rental Rehabilitation Program and the effective and efficient administration of the grantee's rental rehabilitation program or the project.

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Since these city employees are public employees, they are not permitted individually or through a business, pursuant to West Virginia Code 6B-2-5(d)(1), to be a party to or have interest in the profits or benefits of a contract with the governmental body over which they have direct authority or are employed. Since the city has the responsibility for administering the Rental Rehabilitation Grant program, it would be a violation for a city public employee to be a party to or receive the profits or benefits of grant funds disbursed or administered by the city.

  
Chairman