

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY
COMMISSION

ADVISORY OPINION # A-04-01

SUBJECT: REQUEST FOR EXEMPTION FROM PROVIDING ADDRESS ON
EMPLOYEE FINANCIAL DISCLOSURE FORM

The Board of Ethics (the Board) has received a letter from a WSSC employee (the "requestor") asking that the Board permit the requestor to omit the street address or other legal description of the requestor's residence from the requestor's financial disclosure statement.

Although the request was framed as a request for a "waiver" pursuant to Section 2-3 of the WSSC Code of Ethics (the Code), the Board recognizes that Code Section 2-3 on "Waivers" addresses conflict of interest situations and does not *per se* allow for a waiver for information required to be entered on the employee financial disclosure statement. Nonetheless, the Board shall treat the employee's letter as a request for an advisory opinion under the Code § 2-2.

Section 5-3(a) of the Code requires the content of the WSSC financial disclosure statements to be "substantially similar" to the content of the forms required to be completed by employees of the State of Maryland. The Maryland Code Annotated, State Government Article, § 15-607(b) sets forth the content of the forms required for State of Maryland employees and specifically requires that the employee list a "street address, mailing address, or legal description" for each real property interest that the employee holds. In conformance with the requirement that WSSC's forms be substantially similar to the State forms, WSSC's financial disclosure statement requires the employee to list, in Section 1, Item 2, the "address or legal description of the property."

The requestor has asked the Board to allow the requestor to leave blank the item requiring the "address or legal description" of the requestor's property. In support, requestor states that in a previous job, the requestor worked for a State's Attorney Office prosecuting felonies, including serious sex crimes and murder cases which resulted in convicted felons going to jail for often long periods of incarceration. In light of the nature of the requestor's previous work, the requestor does not wish a street address or any legal description of the property to be available to the public and thus potentially accessible by persons who the requestor prosecuted and sent to jail.

It is well established that requiring public employees to disclose certain information regarding their financial or property holdings on a financial disclosure

statement that is available for public review does not violate the public employee's constitutional right to privacy. *Montgomery County v. Walsh*, 274 Md. 502 (1975). This is because a public body or agency "has a compelling interest, on behalf of its citizens, in ensuring that its public officials and employees act with honesty, integrity and impartiality in all of their dealings, and that their private financial holdings and transactions present no conflict of interest between the public trust and private interests." *Id* at 514-515.

Despite this general principle that disclosure of a public employee's personal information does not infringe upon privacy rights, the Board feels that specific exceptions to disclosure may be in order when an employee identifies specific reasons and circumstances in support of a request for an exemption from disclosing a particular item. In the situation before the Board now, the Requestor feels strongly that disclosure of an address or legal description could place the employee and the employee's family at risk for their personal safety. The Board finds, based on the specific circumstances and reasons stated in the request, that this is a valid concern.

For the above stated reasons, the Board advises that the requestor shall not be required to list an address or legal description for the requestor's residence on the financial disclosure statement. The Board gives the following guidelines on how requestor should fill out the disclosure form: 1) The requestor shall enter the County and State where the residence is located, 2) If the requestor has property interests in addition to the requestor's residence, the requestor shall list the street address or legal description of those properties; 3) The requestor must advise the requestor's supervisor of any specific conflicts of interest that may arise between the requestor's job duties and the requestor's property interest in the requestor's residence. 4) This exemption shall only apply for calendar year 2003 and requestor must seek another advisory opinion in future years.

On Motion by Debra Davis, seconded by Warren Fleming, the Board unanimously agreed at its meeting held on June 4, 2004 to adopt the foregoing advisory opinion.

/s/

Sharon M. Constantine
Chair, WSSC Board of Ethics

June 4, 2004

Date