

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

WAIVER REQUEST # W-23-01
ADVISORY OPINION # A-23-01

SUBJECT: CODE OF ETHICS CHAPTER 1.70.350
FINANCIAL DISCLOSURE – STATEMENT CONTENTS

By request dated January 24, 2023, an employee of the Washington Suburban Sanitary Commission (WSSC) has requested that the Board of Ethics grant a waiver of Chapter 1.70.350(a) of the Code of Ethics (Code), which requires the WSSC financial disclosure statement to collect substantially similar information as contained in the Maryland Ethics Commission disclosure form for state employees.

The Requestor is a longtime employee of WSSC who currently is employed as a Supervisory Auditor in the Office of Inspector General. Requestor’s position requires him/her to file a financial disclosure statement annually. The Requestor is asking that the Board permit him/her to omit the street address or other legal description of Requestor's residence from his/her annual financial disclosure statement.¹

Code Chapter 1.70.350(a) 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. Maryland Public Ethics Law 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. (*See MD Code, General Provisions, § 5-607(b)(2)(ii)*). 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, the “address or legal description” of the property where they reside if it is in Maryland.

The Requestor has asked the Board to allow him/her to leave blank the item requiring the “address or legal description” of the Requestor’s residence. In support, Requestor states that in a previous job, s/he audited the war-time activity of a foreign government. This audit revealed that the government had not been truthful about how it had conducted the war. During the audit, Requestor states that there was an attempt on

¹ Although the request was framed as a request for a “waiver” pursuant to Code Chapter 1.70.070(a) of the Code, the Board recognizes that the Code provision on “Waivers” addresses prohibitions and does not specifically allow for a waiver for information required to be entered on the employee’s financial disclosure statement. Accordingly, the Board shall treat the employee’s letter as a request for an Advisory Opinion under Code Ch. 1.70.060. It is cross-numbered A-23-01.

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his/her life. Since the audit, representatives of the governing regime have sought the Requestor's current residence. In light of the nature of the Requestor's previous work and the continuing threat, Requestor does not wish to report a street address or have any legal description of the property to be available to the public or possibly subject to accidental release.

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 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. Additional support for this view as it relates to home addresses is that state law now requires the home address to be redacted from statements filed after January 1, 2019, when a statement is provided in response to a public inspection request. (*See* MD Code, General Provisions, § 5-607(a)(3)).

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 reasons specified 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. This will prevent even accidental disclosure of the address. The Board emphasizes that the decision to remove this requirement for the Requestor is specifically based on the current facts as presented. Should the situation change, Requestor is advised to seek additional guidance from the Board.

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On motion by Steven Hausman, seconded by Jeffrey Hysen, three members of the Board (Hausman, Hysen, and Pruden) agreed to grant the request.

DocuSigned by:

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George E. Pruden, II, Chair

Mar 9, 2023 | 1:00 PM PST

Date