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## THE PRINCE GEORGE'S COUNTY GOVERNMENT BOARD OF ETHICS

The Honorable Covette Rooney, Chair  
Cassandra Burckhalter, Member  
Curtis Eugene, Member  
Sharon Theodore-Lewis, Esq., Member

### BOARD ADVISORY OPINION

November 6, 2017

AO-18-0459

The Board of Ethics ("the Board") met in closed session on September 8, 2017, to discuss the case referral from the Office of Ethics and Accountability (OEA), regarding alleged ethics violations of a County official (hereinafter referred to as "DPIE Official"). The Board reviewed the Executive Summary<sup>1</sup> prepared by OEA on this matter. The Board voted there was a reasonable basis to believe an ethics violation had occurred as a result of the Director's prohibited conflicts of interest pursuant to Section 2-293(a) of the Prince George's County Code of Ethics. The Board notified Executive Leadership of its' vote and stated, that it would reserve taking further actions, such as, holding a hearing pursuant to Section 2-292, on the alleged ethics violations for thirty (30) days to allow Executive Leadership to respond to recommendations outlined in OEA's Executive Summary and to take appropriate corrective actions. The Board has since been given an opportunity to review the corrective actions proposed by Executive Leadership and now provides the following advisory opinion.

#### **Background**

The Department of Permitting, Inspections and Enforcement (DPIE) is the County agency responsible for the authorization and regulation of building, site, road and utility permits and business licenses as well as inspection oversight, property maintenance and enforcement of the building code. DPIE's regulatory authority over the County's citizens and those seeking to do business within, and with the County is quite extensive.

OEA initiated its' investigation on May 3, 2017, after receiving a request from Executive Leadership. OEA was asked to investigate the allegations made in a series of public posts. The allegations as summarized in the Executive Summary were:

1. DPIE Official is exercising regulatory authority over business entities in which they, their spouse and their children have a personal and financial interest;

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<sup>1</sup> An Executive Summary is a written report from the OEA detailing its investigatory activities, evidence and documents collected and reviewed, the alleged violations of the County Code or other laws, and may also set forth recommendations for disciplinary or other corrective action.

2. DPIE Official is improperly using his access to County resources to financially benefit himself and his family;
3. DPIE employees are knowingly allowing building code violations on properties owned by the businesses or family members of the DPIE Official; and
4. DPIE senior management has engaged in retaliatory actions against an employee for reporting code violations on properties owned by the businesses or family members of the DPIE Official.

At the conclusion of OEA's investigation it concluded that allegation one (1) had been substantiated; allegations two (2) and three (3), were deemed unsubstantiated; and allegation four (4) was referred to the Office of the Human Resources for review. The Board met in closed session to discuss the Executive Leadership's response to the recommendations listed in OEA's Executive Summary and the proposed actions by Executive Leadership and DPIE Official, the details of which will be discussed herein.

### **Applicable Law**

The Prince George's County Code of Ethics is intended to govern the actions of elected officials, appointed officials, and employees. The Code of Ethics seeks to ensure that trust is not eroded and that there is no improper influence, actual or the appearance thereof, in County Government. Section 2-290 of the Code of Ethics states:

The Prince George's County Council, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained. It is evident that this confidence and trust is eroded when the conduct of the County's business is subject to improper influence and even the appearance of improper influence. For the purpose of guarding against improper influence, the County Council enacts this Code of Ethics to require County elected officials, officials, employees, and individuals appointed to boards and commissions to disclose their financial affairs and to set minimum standards for their conduct of local business. It is the intention of the Council that this Division, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

#### **Sec. 2-291. – Definitions.**

**(4) Doing business with** means:

(A) Having or negotiating a contract that involves the commitment (either in a single or

combination of transactions) of Five Thousand Dollars (\$5,000.00) or more of County or County-controlled funds; or

(B) Being regulated by or otherwise under the authority of the County; or

(C) Being registered as a lobbyist in accordance with Section 2-295 of this Division.

(5) **Financial interest** means:

(A) Ownership of any interest as the result of which the owner has received, within the past three (3) years, or is presently receiving, or in the future is entitled to receive, more than one thousand dollars (\$1,000.00) per year; or

(B) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than three percent (3%) of a business entity by a County official or employee, or the spouse of an official or employee.

(6) **Gift** means:

the transfer of anything of economic value regardless of the form without adequate and lawful consideration. "Gift" does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions ...

(8) **Interest** means:

any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly. For purposes of Section 2-294 of this Division, "interest" applies to any interests held at any time during the reporting period for which a required statement is to be filed. "Interest" does not include:

(A) An interest held in the capacity of a personal agent, personal representative, custodian, fiduciary, or trustee, unless the holder has an equitable interest in the subject matter;

(B) An interest in a time or demand deposit in a financial institution;

(C) An interest in an insurance policy or endowment policy or annuity contract under which an insurer promises to pay a fixed amount of money either in a lump sum or periodically for life or some other specified period;

(D) A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than twenty-five (25) participants and which has been determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code.

(E) A college savings plan under the Internal Revenue Code.

(10) **Official** means;

an elected official, an employee of the County, or a person appointed to or employed by the County or any County agency, board, commission, or similar entity whether or not paid in whole or in part with County funds and whether or not compensated.

**Sec. 2-293. - Prohibited conduct and interests.**

(a) **Participation Prohibitions.** Except as permitted by Board regulations or opinion, an official or employee may not participate in:

- (1) Any matter, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter, if, to his knowledge, he, his spouse, parent, child, brother, or sister has an interest therein.
- (2) Any matter, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to the matter, when any of the following is a party thereto:
  - (A) Any business entity in which he has a direct financial interest of which he may reasonably be expected to know;
  - (B) Any business entity of which he is an officer, director, trustee, partner, or employee, or in which any of the above-listed relatives has this interest;
  - (C) Any business entity with which he or, to his knowledge, any of the relatives listed in paragraph (1) of this Subsection is negotiating or has any arrangement concerning prospective employment;
  - (D) Any business entity which is a party to an existing contract with the official or employee, or which the official or employee knows is a party to a contract with any of the above-named relatives, if the contract could reasonably be expected to result in a conflict between the private interests of the official or employee and his official duties;
  - (E) Any entity doing business with the County in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if he may be reasonably expected to know of both direct financial interests; or
  - (F) Any business entity which the official or employee knows is his creditor or obligee, or that of any of the relatives listed in paragraph (1) of this Subsection, with respect to a thing of economic value and which, by reason thereof, is in a position to affect directly and substantially the interest of the official or employee or any of the above-named relatives.

(3) If a disqualification pursuant to paragraphs (1) or (2) of this Subsection leaves anybody with less than a quorum capable of acting, or if the disqualified official or employee is required by law to act or is the only person authorized to act, the disqualified person shall disclose the nature and circumstances of the conflict and may participate or act.

(4) The prohibitions of paragraph (1) of this Subsection do not apply if participation is allowed by regulation or opinion of the Board.

**(b) Employment Restrictions.**

(1) (A) Except as permitted by regulation of the Board when such interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by, or have a financial interest in, any entity subject to his authority or that of the County agency, board, or commission with which he is affiliated or any entity which is negotiating or has entered a contract with that agency, board, or commission; or

(ii) Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee.

(B) This prohibition does not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it;

(ii) Subject to other provisions of law, including this Section 2-293, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and Board; or

(iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Board; or

(iv) Employment or financial interests allowed by regulation of the Board if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

**Analysis**

The Code of Ethics applies to officials, employees and appointed County board and commission members. County officials and employees must at all times act impartially and with independent judgment to avoid conflicts of interest. The Code of Ethics is intended to ensure that the conduct of the County's business is free from even the appearance of a conflicts of interest, partiality, favoritism or pressure. The Code provides guidance on how officials and employees are to comply with the purpose of the Code. The Board is the advisory body responsible for

interpreting the County's Code of Ethics and advising persons subject to its jurisdiction. As a County official, the DPIE Official is subject to the Board's jurisdiction.

Section 2-294(a)(34) of the Code requires certain officials, employees, and/or appointees of the County government file financial disclosure statements. Officials subject to this disclosure are "directly responsible for making governmental decisions, policy or taking governmental action pursuant to any such decision or policy or recommending any such decision, policy or action with regard to procurement, administering/monitoring grants or subsidies, planning and zoning, inspecting, licensing, regulating, or auditing any nongovernmental enterprise and other activities where the decision, action or policy might have significant economic impact on the interests of any nongovernmental enterprise. The filing of financial disclosure statements serve to remind public officials and employees of their financial interests to help them avoid conflicts of interests, while at the same time promoting public confidence in the integrity of government by providing citizens with information about those who serve them.

Due to the significance of the DPIE Official's work and the broad authority they have as result of their position, they are a designated official required to file a financial disclosure statement on an annual basis with the Board of Ethics. The Board reviewed the DPIE Official's previously filed financial disclosure statements for calendar years 2012 through 2015.

In 2012, the DPIE Official reported having a 50% stock or equity interest in Business #1. The FDS reported the interest was acquired on January 1, 2010. The DPIE Official reported both they, and their spouse had received income from the business.

In 2013, the DPIE Official reported having a 73% stock or equity interest in Business #1. The DPIE Official reported their spouse and adult child received income from Business #2.

In 2014, the DPIE Official reported acquiring \$148,823 in stock/interest in Business #1. The DPIE Official reported their spouse and adult child received income from Business #2.

In 2015, the DPIE Official reported acquiring \$129,966 in stock/interest in Business #1. The DPIE Official reported their spouse and adult child received income from Business #2.

In 2016, the DPIE Official reported acquiring \$65,448 stock/interest in Business #1 and reported the company as doing business with the County. The DPIE Official reported their spouse and adult child received income from Business #2.

At no point during the reporting periods of 2012 through 2016 reviewed by the Board, including up to present time, did the DPIE Official disclose on their financial disclosure statements Business #2 as a business entity "doing business" with the County. Notably, the DPIE Official had not reported Business #1, as doing business with the County until their filing for the 2016 calendar year. While the Board cannot know the reason for the change in reporting for the 2016 reporting period, such a change did coincide with the public reports about the relationship of the DPIE Official to the businesses in question. The DPIE Official has been a designated official



required to file financial disclosure statements for more than ten (10) years. The financial disclosure statements filed by the DPIE Official specifically asks whether they [or their spouse or child] had stock or equity interest in in business entities doing business with the County.<sup>2</sup>

Many subsections of the Section 2-293, Prohibited Conduct and Interest, are implicated by the set of facts and circumstances as presented in this matter. First, section 2-293(a) the DPIE Official, an appointed official, from participating in any matter except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter if he, his spouse or children have an interest.<sup>3</sup> Second, section 2-293(2) also prohibits such participation if a business entity in which the official has a direct financial interest, in which he is an officer, director, trustee, partner, or employee, or in which any of the above-listed relatives has this interest is a party thereto.

The DPIE Official, their spouse and their children have interests [direct and financial] in a business that is doing business with the County. The DPIE Official's role over the daily operations of the agency and its employees cannot be considered merely ministerial or administrative in nature. All employees of DPIE report directly or indirectly to the DPIE Official. The business are companies which buy, sell, renovate and manage rental properties. The businesses frequently engage in these activities in Prince George's County that bring them under the regulatory authority of DPIE. The DPIE Official's personal home is also the business address of Business #1 and Business #2. Enforcement actions taken by DPIE against the businesses have been issued the DPIE Official's children as agents of the businesses, at the same address.

OEA in its' investigation of the matter reviewed records from DPIE, the Office of Law, and public records. Business #2 received multiple violations similar in nature at various properties. The nature of the violations is the exact sort of actions DPIE is required to inspect, investigate and enforce. The manner in which these violations are resolved are subject to heightened scrutiny because of the DPIE Official's relationship with the business. However, where there exists such a relationship amongst the business in question and the leadership of DPIE, it can easily create a perception that inspection decisions and enforcement actions are being impacted by the relationship of the DPIE Official to the business. While the DPIE Official may not be directly involved in the decision making process of each DPIE employee, their supervisory relationship to all of the employees still must be considered. As such, the interests held by the DPIE Official and their family members are incompatible with their official duties and responsibilities within DPIE. There exists not only an irrefutable appearance of a conflict of interest, it is in fact a conflict of interest prohibited by the Code of Ethics. Once the Board has found a conflict of interest exists under the County's Code of Ethics, the Board may issue an order of compliance directing the employee or official to cease and desist from continuing to engage in such conduct, except as permitted by the Board. Sections 2-293(a) and 2-297(a)(1).

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<sup>2</sup> Doing business with the County includes being regulated by or otherwise under the authority of the County. §2-291(4)

<sup>3</sup> The Code does not draw a distinction between the applicability of this section regarding interest held by an adult or minor child of an official.

Lastly, Section 2-293(b)(1)(A), Employment Restrictions, prohibits an official or employee from being employed by or having a financial interest in any entity subject to their authority or that of the County agency with which they are affiliated unless their County duties are administrative and ministerial in nature. As noted above the DPIE Official has a financial interest in Business #1 and Business #2 and their official duties with the County cannot be characterized as merely administrative or ministerial in nature. The DPIE Official exercises direct and indirect supervisory authority over all other DPIE employees. This authority extends to those DPIE employees who are or would be responsible for regulating the businesses in which the DPIE Official possesses a financial interest. Section 2-293(b)(1)(B)(iv) prohibits this type of employment relationship unless it is allowed by the regulation of the Board if the Board determines it does not create a conflict of interest or the appearance of a conflict or the financial interest is disclosed.

The DPIE Official's financial interests in the businesses in question also implicate the employment restrictions of the Code of Ethics. As such, this employment relationship as described is a violation of the Code of Ethics. If the Board were to consider granting such an exception, we look to County Administrative Procedure 152 and the guidance provided by the Maryland State Ethics Commission in Advisory Opinion 82-40. The opinion provides factors to consider in determining whether a relationship between an employee's official duties and employment are so remote that the possibility of a conflict of interest or the appearance of a conflict is unlikely and the employment would be allowed. The State's employment provisions are similar to that of the County's and for this reason we consider the factors discussed therein. The factors to be considered are:

- A. The employee's duties do not significantly impact on the outside employer or a contract between the outside employer and the agency.
- B. The employee is not directly supervised by a person whose duties significantly impact on the outside employer or a contract between the outside employer and the agency.
- C. The employee does not supervise a person whose duties significantly impact on outside employer or a contract.
- D. The employee is not affiliated with the specific unit in the agency that exercises authority over or contracts with outside employer.
- E. The employee has complied with other relevant sections of the Ethics Law.
- F. The outside employment involves no non-ministerial duties significantly relating to the agency's authority over the employer.
- G. The outside employee's duties do not involve negotiating or carry out a contract between the agency and the outside employer (except for broad fixed reimbursement contracts).



- H. The private compensation is not directly funded by the County contract.
- I. The specific employment circumstances do not otherwise create a conflict of interest or the appearance of a conflict.

Applying those factors to this matter, we believe it raises issues under factors A, C, D, E, and I. The nature of the businesses in which the DPIE Official has an interest, are such that they frequently interact with the County and DPIE specifically. The businesses regularly seek building and electrical permits and rental licenses which are issued, monitored and inspected by DPIE. The County has a direct and legal interest in ensuring compliance with County regulation requirements. As part of that interest, the County, through DPIE employees, engage in enforcement actions against persons who have violated the regulatory requirements. Even in those situations in which the DPIE Official would not be directly involved, the matters would still come before an employee over which he exercised supervisory authority. The facts as presented show that the DPIE Official has a financial interest in these businesses and if they receive adverse actions from a DPIE employee or similarly if the companies received favorable treatment, the Official may be personally impacted. Further, as noted above, the business addresses used by the companies is the same address as the DPIE Official's personal address. These factors create not only the appearance of a conflict of interest, but also an actual conflict of interest.

As previously indicated and as explained above, the Board has a reasonable basis to believe the DPIE Official has a conflict of interest under Section 2-293 of the Code of Ethics. Still, the Board has not made a final determination on the matter as it has reserved its' right to hold a hearing on the matter pursuant to Section 2-292(2). The extent to which the DPIE Official has an interest in businesses that are doing business with the County and the frequency and duration of which his agency has and continues to regulate those businesses is very problematic. While the DPIE Official reported receiving income from Business #1, for more than four years they failed to accurately report that this business was actually doing business with the County until the financial disclosure statement filed for calendar year 2016. Business #2 has never been reported as doing business with the County by the DPIE Official. Further, there has been no facts to suggest that they ever took steps to report to their supervisory authority or the Board as required by the Code of Ethics, the known conflicts of interest. However, reporting alone of a conflict of interest without also seeking and being granted an exemption from the Board, would not cure the conflict. Ordinarily the most appropriate remedy to such an extensive, prolonged and obvious conflict of interest would be to prohibit the DPIE Official and the companies in which they have an interest, from conducting business in the County for as long as they maintain their tenure in DPIE in the current position.

However, Executive Leadership has informed the Board that they think an exception could be granted in this matter as it is their belief that a formal recusal would be sufficient to address the conflicts of interest.<sup>4</sup> Executive Leadership, has asked the Board to consider granting an exception in this matter based on the comprehensive recusal plan they have developed. The Board is willing

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<sup>4</sup> To date, the DPIE Official has not made a request to the Board to grant an exemption of this prohibition.

to consider such a request with modifications but would only grant such an exception in lieu of conducting a hearing on the matter if the Board is convinced sufficient safeguards are put in place to satisfy the compelling interests of the County in maintaining the trust of its citizens. Section 2-290(b) of the Code of Ethics explicitly expresses a concern for “even the appearance of improper influence,” and thus it is imperative that terms set forth establish a clear separation of the DPIE Official’s duties and responsibilities as an appointed County official from the businesses they and their family on, which are doing business with the County and regulated by DPIE. Such terms, if followed, would adequately fulfill the objectives of the County Code of Ethics.

Executive Leadership has proposed the following actions in response to OEA’s recommendations and to support the request for an exception. The Board in reviewing those actions provides the following responses:

1. The Executive Team disagrees with the assertion from OEA that there is no measure that could be taken that would sufficiently address the conflicts of the DPIE Official. As such, the Executive Team is proposing to the Board of Ethics an appropriate "Recusal Process" concerning the DPIE Official. This proposed recusal process is outlined as the following:
  - A. A formal written “Notice of Recusal” will be developed for the DPIE Official that is specific to the Department of Permitting, Inspection and Enforcement (DPIE). The notice will exclude the DPIE Official from becoming involved and/or making any decisions that affect Business #1 and Business #2 and properties owned (to include any rental property).

**Board’s Response:** The recusal will be submitted to the DCAO, the County CAO and the County Executive. The notice will state that the DPIE Official will be excluded from being involved directly or indirectly, in any and all matters in which he or his family (to include his spouse, children, parents or siblings) has any interest as defined by Section 2-291(a)(8) of the Prince George’s County Code of Ethics. This recusal will also include any businesses or properties owned by the DPIE Official’s family titled in their names or in the name of any other entity, but in which the DPIE Official or their family has an interest, and that is doing or seeking to do business with the County as defined by Section 2-291(a)(4).

- B. All decisions and actions concerning the DPIE Official’s family businesses and properties (including rental properties) shall be delegated to Gary Cunningham, Deputy Director. In the absence of Mr. Cunningham, the decision shall rest with Dawit Abraham, Deputy Director. If neither Deputy Director is able to make a decision and/or not available then the decision shall be referred to the Deputy Chief Administrative Officer for Public Infrastructure for a final decision and resolution.

**Board’s Response:** The Board does not agree that delegating solely to persons who are subject to the supervisory authority of the DPIE Official sufficiently addresses the appearance of a conflict of interest, which is prohibited by the Code of Ethics and thus

final approval shall rest with the DCAO. The DCAO may delegate their approval authority to an Assistant Deputy DCAO.

In all matters involving the DPIE Official and/or their family to include businesses owned by him or his family or in which they have an interest including rental properties within Prince George's County, any and all decisions or actions taken by DPIE will be delegated to Deputy Director Gary Cunningham and in his absence, Deputy Director Dawit Abraham. However, no final decisions or resolution on those matters shall be made unless and until the DCAO of Public Infrastructure has reviewed the matter. This review must be memorialized in writing.

- C. A memo from the Deputy Chief Administrative Officer for Public Infrastructure shall be prepared and distributed to the DPIE Deputy Director's, Associate Director's, Managers and Supervisors advising them of the recusal requirements concerning the DPIE Official and their family business and properties (including rental properties). All employees listed in the memo will have an ongoing and updated list of property that will be monitored and maintained by Mr. Cunningham, Deputy Director. If there are any discrepancies in the list of properties provided and received from the DPIE Official, this information will be brought to the attention of the Deputy Chief Administrative Officer for Public Infrastructure for review and resolution.

**Board's Response:** In order to receive an exception, the DPIE Official will be required to provide a written list to his DCAO of all properties located in Prince George's County in which they or their family owns or has an interest. The DPIE Official will be under a continuing obligation to ensure this list is kept current. The initial list should be provided to the DCAO within two (2) weeks.

A memo from the DCAO shall be prepared and distributed to DPIE Deputy Director's, associate director's, managers and supervisors advising them of the recusal of the DPIE Official as it relates to their family businesses and properties (including rental properties). Included in the memo will be a list of all properties disclosed by the DPIE Official. These parties are to acknowledge in writing receiving the memo and that they understand its' contents. It will be the responsibility of the managers and supervisors to distribute and explain the contents of the memo to other employees whom they supervise. A record of the meeting and employees in attendance should be maintained. The list of properties will be accessible at all times to those employees responsible for granting permits, inspections, enforcements, and approvals or conducting oversight over matters in the normal course of business within the agency. Alternatively, if available, based on DPIE's current case management system, the identified properties shall be flagged in the system to note the recusal of the DPIE Official. The list will be monitored and maintained by the DCAO, however, a copy of the list will also be retained by each DPIE Deputy Director.

- D. The DPIE Official will be required to provide a written complete listing of all property (including rental properties) that his family owns and he has a personal and financial interest in, or for which permits were issued to the two businesses in questions from 2011 to present. The DPIE Official shall provide the list upon receiving a written directive from the Deputy Chief Administrative Officer for Public Infrastructure to do so.

**Board's Response:** The DPIE Official will provide a written list of all properties located in Prince George's County, including rental properties that were or continue to be owned by them or their spouse or their children, in which they have a personal and/or financial interest or for which permits were issued by DPIE to their family or either of the two businesses. This list shall include all such properties from 2011 to present. This list will be provided to his DCAO and the County Attorney, within three (3) weeks from the date in which the DPIE Official receives a written Directive from his DCAO to do so.

If at any time it is discovered that discrepancies exist in the lists provided by the DPIE Official, the DCAO agrees to notify the Board and to also take appropriate remedial actions following County protocol to address such matters as it deems appropriate, which may include administrative and disciplinary actions, up to and including termination. Any exception granted by the Board will be based upon the representations of the DPIE Official that the lists provided are complete and accurate. If it is later determined by the Board that the representations were deliberately inaccurate, the exception will be revoked.

- E. The DPIE Official will officially be removed from the official Chain of Command from the Department of Permitting, Inspections and Enforcement concerning any/all decisions that affect their family's business to include rental properties and/or any other business and/or company not officially identified to date.

**Board's Response:** The Board agrees with this proposal without alteration.

- F. All signature authority that may be required concerning the DPIE Official's family business shall be delegated to Gary Cunningham, Deputy Director. In the absence of Mr. Cunningham, Deputy Director Abraham will handle that responsibility.

**Board's Response:** In situations which require the signature authority of the DPIE Official, but concerns matters in which they, their spouse or children have an interest, this responsibility will be delegated to Deputy Director Gary Cunningham and in his absence, Deputy Director Dawit Abraham. All such situations shall be reported in writing to the DCAO within forty-eight (48) hours. This provision is subject to further clarification by the DCAO to the Board, as to feasibility and steps necessary to implement such action in consultation with the Office of Finance.

G. The DPIE Official shall be required to divest from their family businesses as soon as possible. Appropriate documentation of the divestiture shall be provided to the Deputy Chief Administrative Officer for Public Infrastructure and the County Attorney for final review. We expect this process to be completed in (30) thirty days from receipt of the directive from Deputy Chief Administrative Officer for Public Infrastructure.

**Board's Response:** The Board offers no comment on this recommendation.

2. (OEA Recommendation) Request an external audit of DPIE's records to determine which properties the DPIE Official and/or their family has an interest that are under the regulatory authority of DPIE. Additionally, the audit should check for any discrepancy in the way cases were handled that involved the companies in question and those that did not. The audit should include rental properties owned by companies that are subject to DPIE's regulatory authority.

Executive Leadership will address this recommendation.

**Board's Response:** The Board is in agreement with this proposal.

3. (OEA Recommendation) Consider proposals to the Legislative branch to amend current law which allows violations to be issued and enforcement actions be taken against the current homeowners instead of the party who actually performed work in violation of the building codes. As it stands, homebuyers are liable for all work performed on the house, even if the work was completed prior to their ownership by another individual and without the current owner's knowledge.

Executive Leadership will not propose any legislative changes regarding building code enforcement actions and violations.

**Board's Response:** The Board offers no comment on this recommendation.

4. (OEA Recommendation) Require DPIE to establish a policy to address the use of third-party certifications in residential properties similar to DPIE's Third Party Inspection Program used for commercial properties.

Executive Leadership will address this recommendation and expect to have something formalized in writing within the next sixty (60) days.

**Board's Response:** The Board makes no comment on this recommendation.

5. (OEA Recommendation) Direct the Office of Law to establish a written countywide policy regarding the handling of all MPIA requests received by a County agency.

Executive Leadership advised the Office of Law will be providing clarifying advice to County agencies and where necessary, training to address the appropriate way to handle and process MPIA requests.

**Board's Response:** The Board recommends each agency have a designated person who interfaces with the Office of Law on such matters.

6. (OEA Recommendation) Direct the OOL to establish written policies and protocol for providing notification to Executive Leadership regarding any and all legal matters that involve appointed officials and/or their family, as well as any and all matters that have potential media risks.

Executive Leadership has advised it will not follow this recommendation. Instead an informal process will be addressed with the Office of Law through the County Attorney.

**Board's Response:** The Board recommends the Office of Law in coordination with the Office of the County Executive, through the County Attorney or other staff determine on a case by case basis what will be the appropriate notification process on matters involving appointed officials and/or their family and matters that pose potential media risk.

7. (OEA Recommendation) Matters involving employee relations and allegations of retaliation against employees by superiors are outside of the jurisdiction of the OEA, thus the matter has been referred to the Office of Human Resources Management for review.

Executive Leadership will take no further action as matter is being handled by the Office of Human Resources Management.

**Board's Response:** The Board makes no comment on this recommendation.

8. (OEA Recommendation) Allegations or facts that may rise to the level of criminal acts or other violations either by the DPIE Official or their family members are beyond the scope and review of the OEA and as such are subject to review by the appropriate law enforcement and administrative agencies for review.

Executive Leadership will take no further action as it determines it to be OEA's decision to decide who the appropriate referral Agency and/or Department should be.

**Board's Response:** The Board makes no comment on this recommendation.

9. (OEA Recommendation) Any allegations involving improper conduct by a Maryland judge are beyond the scope of the OEA and are subject to review by the Maryland Commission on



Judicial Disabilities. If determined to be appropriate, complaints or requests for review should be filed with the Commission.

Executive Leadership will take no action.

**Board's Response:** The Board makes no comment on this recommendation.

10. Executive Leadership requests that OEA review the Financial Disclosure Statement (FDS) forms to determine if additional language should be added to schedule summaries.

OEA reviewed the request and determined no additional action will be taken as presently the electronic and paper FDS forms include language that describes the information requested and OEA offers assistance upon request in completing the forms.

**Board's Response:** The Board agrees the forms and notices are sufficient as is and do not require amendment at this time.

### **Conclusion**

In view of the prohibitions in Section 2-293 as discussed herein and because Section 2-290(b) indicates a concern for “even the appearance of improper influence,” it is important to have a clear understanding that such a recusal as outlined above would have to be rigorously adhered to, in order to fulfill the objectives of the County Code of Ethics, which is to be broadly construed and strictly enforced. One of the primary purposes is to avoid improper influence or the appearance of improper influence of public officials and employees.

While the Board acknowledges the terms discussed herein for an exception, may be perceived as extensive, the prevailing concern of the Board of Ethics is the integrity of the Code of Ethics and the enforcement thereof. The citizens of Prince George’s County and those seeking to do business with the county have a right to be assured that the impartiality and independent judgment of public officials will be maintained. In reaching this opinion the Board of Ethics has relied upon facts as presented by you, the OEA Executive Summary, public records and other information made reasonably available to the Board.

Sincerely,

/s/

Covette Rooney  
Board Chair