



THE PRINCE GEORGE'S COUNTY GOVERNMENT BOARD OF ETHICS

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February 28, 2020

[REDACTED]
Systems Preservation Services
One North Charles Street, Suite 1101
Baltimore, MD 21201

RE: Post-Employment

Dear [REDACTED]

As a former County employee, you have inquired as to whether or not you may pursue County employment opportunities with the Maryland State Highway Administration (SHA). Upon resignation or retirement, former County employees remain subject to the post-employment limitations and restrictions of section 2-293(b)(2)(A) of the Prince George's County Code of Ethics (Ethics Code). For the reasons discussed below you are not prohibited from engaging in post-employment work with the SHA.

BACKGROUND

You resigned from your position as [REDACTED] the County's Department of Public Works & Transportation (DPW&T) in July 2018. In your previous County role, you had some involvement with the Purple Line Project. In your request you stated that you were responsible for providing guidance and oversight of the County's interest in the Purple Line Project, which included plan reviews and providing comments on issues that impacted County owned and maintained roadways. The DPW&T's Office of Real Estate, under your supervision, was responsible for purchasing non-county owned parcels and conveying those properties to the Maryland Transportation Authority (MTA). DPW&T's Office of Engineering and Project Management assisted with the review of project plans and provided written comments, which were submitted under your signature. You also signed the Memorandum of Understanding (MOU) between the MTA and the County, which outlined the County's proposed contributions to the Purple Line.

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MAIN (301) 883-3445 FAX (301) 883-3450 MD RELAY SERVICE 711

Privileged and Confidential

You have indicated that you wish to pursue an opportunity with the SHA as a Program Manager. In this role, you would be responsible for monitoring construction activity, representing and serving as a community liaison for SHA District 3, and helping to facilitate resolutions to issues that arise from the work being performed by the construction. District 3 encompasses both Prince George's County and Montgomery County.

ANALYSIS

Section 2-293(b)(2)(A) of the Ethics Code states that a former official or employee may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which they significantly participated as an official or employee. The County's interpretation of post-employment restrictions models the State.¹ The intent of the restriction is to avoid the appearance of 'switching sides' in a particular matter and using special knowledge acquired in the context of one's County employment for the benefit of a party other than the County.

The factors considered when reviewing post-employment restrictions are whether the proposed employment involves the same basic facts, related issues and information, the same or related parties, and whether it is one in which there exists a continuing existence of an important County interest, as well as other considered factors. Generally, the post-employment restrictions do not serve as a bar on all employment with an entity involved in matters relating to a former agency or an individual's appearance before the agency. Rather, it looks to identify a particular or specific matter in which a former official or employee was involved in a significant way during their tenure with the County. The Ethics Code forbids assistance or representation as to *those* matters on behalf of another party. There is no time limit on this prohibition.

In considering the factors mentioned above, the post-employment restrictions are limited in application to specific matters in which an individual participated significantly. In your previous role as a County official you were involved in the project plan review and oversight of issues that impacted the County owned and maintained roadways as it related to the Purple Line Project. The MOU signed on behalf of the County² was with MTA and dealt with the County's financial contributions to the project.

The first step in a post-employment analysis is to identify what, if any, specific matters exist as it relates to the prospective employment and the extent of the former official or employee's involvement, if any, in those same matters while employed by the County. As a County official, you represented the County's interest in the project with the MTA and the contractor, Purple Line Construction Contractors. Your duties did not involve the SHA. The work in which you now seek

¹See Md. Code Ann. GP. § 5-808 (2014).

² The MOU was signed by the County's Chief Administrative Office and the Directors for DPW&T, Department of Environment and the Department of Permitting, Inspection and Enforcement.

to engage in, although involving the Purple Line Project, it would not be on behalf of the County or the MTA, but instead SHA. In your request, you indicate your post-employment duties would be to assess and record citizen complaints in District 3 and to then advise others at SHA and offers solutions to address the concerns raised. You will also serve as the community liaison for District 3 and serve as the primary point-of-contact for that area. You will not be the final authority on the matter, but simply an advisor to other District 3 senior management officials. Based on these facts, we conclude that the proposed work on behalf of SHA is not the same "specific matter" as that which you performed as part of your official County duties. Therefore, because your work as a County official will not be specific to the work in which you now seek to participate in post-employment, Section 2-293(b)(2)(A), does not prohibit this post-employment. However, to the extent that a situation arises in which you would be involved in a specific County matter that you previously had significant involvement in, you would be prohibited from participating in that matter with your new employer.

CONCLUSION

For the reasons discussed herein, we conclude that based on the facts as presented by you in your request and the information reasonably obtained by OEA, you are not prohibited from engaging in post-employment work with the Maryland Department of Transportation State Highway Administration.

I trust the information provided herein will be of assistance to you. If you have any questions or need further information, please contact the Office of Ethics and Accountability at 301-883-3445.

Sincerely,

A handwritten signature in black ink, reading "Cassandra Burckhalter". The signature is written in a cursive, flowing style.

Cassandra Burckhalter
Board Chair