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County Executive

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THE PRINCE GEORGE'S COUNTY, MARYLAND GOVERNMENT BOARD OF ETHICS

Cassandra Burckhalter, Chair
Melanie Barr-Brooks, Member
Curtis Eugene, Member
Charlene Gallion, Member
Sharon Theodore-Lewis, Esq., Member

BOARD ADVISORY OPINION

September 13, 2021

Case # AO-22-0018

RE: Prohibited Conduct – Conflict of Interest

Dear [REDACTED],

As a [REDACTED], you inquired about any conflicts that may exist in your brokerage firm. Specifically, as to whether it is permissible for an agent within your brokerage firm who is working with Casa de Maryland, a Latino and immigration advocacy-and-assistance organization based in Maryland to locate a site to lease in Southern Prince George's County, Maryland, and another agent in your brokerage firm who is working with Physical and Sports Rehab located in Upper Marlboro of Prince George's County, Maryland who wishes to lease space at Southlake, a mixed use development in Bowie, Maryland. Because the Ethics Code only governs the activities of officials and employees of Prince George's County, Maryland, this advisory opinion is limited to the proposed activities of you as an elected County official.

Please note, as it relates to this advisory opinion, that advice is only provided for something you intend to do, not for behavior that has already occurred. Any information of past behavior provided in requests deemed to have been a violation of the County's Code of Ethics or Ethics and Accountability Law may be used against the official or employee in any subsequent OEA investigation/referral or Board of Ethics enforcement action.

According to Section 2-293(a) of the Ethics Code prohibits a County official from participation in any matter in which they have an interest, including a financial interest; or in matters where a business entity in which they have an employment interest, applied for employment, or a direct financial interest, is a party to the matter; and prior to this opinion, you have been advised several times, on the actual and apparent conflicts of interest that exist because of your role as the owner of a brokerage firm.

You have also been previously required to consult with the Board of Ethics regarding the permissibility to engage in secondary-employment work as a broker with any business entity; especially an entity doing business with the County.

On August 17, 2021, the Board of Ethics issued Findings, Facts and Conclusion in a case ordering you to cease the operation of broker activities with entities doing business with or in Prince George's County, Maryland.¹ For the reasons discussed below neither is it permissible for agents working for or affiliated with your brokerage firm to complete the contemplated transactions nor for you to continue working with your brokerage firm in Prince George's County, Maryland while serving in your primary position [REDACTED] for Prince George's County, Maryland. Because you are prohibited from working as a broker in the County, agents acting on your behalf via the brokerage firm are also prohibited from engaging in business with entities in Prince George's County, Maryland.

As the owner and president of a Commercial Real Estate Brokerage firm, you serve as the firm's primary broker. Your brokerage firm provides real estate services to professionals and organizations of varying sizes and scopes. Additionally, the firm advises a variety of groups and businesses on the development potential of their sites and property type as well as provides technical expertise in site inspections, government relations, legislative and text amendment and planning board hearings. You continued to operate your real estate brokerage business after you were elected [REDACTED] in December of 2018. You received an advisory opinion from the Board of Ethics regarding conflicts of interest with entities doing business in or with the County. Subsequent to the Board's Advisory Opinion, the Board issued Findings of Facts and Conclusions essentially ordering you to cease doing business with entities that engage in business in or with the County.

The Code of Ethics is intended to ensure that the conduct of the County's business is free from even the appearance of partiality, favoritism, or pressure. County employees and officials must always act impartially and with independent judgment to avoid even the appearance of a conflict of interest. The intention of the Code of Ethics is that the provisions set forth therein be liberally construed to accomplish this purpose.²

The Board of Ethics has advised you in a previous Advisory Opinion that you should exercise great care to guard against potential matters that could be directly or tangentially related to the County and/or your official activities or training as a County Council member or related County activities. It would be advisable for you to continue to evaluate the extent to which the County's interest and that of any potential client may overlap.

¹ Section 2-291(a)(4)(B) of the Ethics Code defines doing business with the County as "being regulated by or otherwise under the authority of the County"

² See, Prince George's County, Maryland Code of Ethics § 2-290-Statement of purpose and policy.

The Board of Ethics issued Findings, Facts and Conclusion in a case ordering you to cease the operation of broker activities with entities doing business with or in Prince George's County, Maryland. This prohibition extends to the activities of all other employees employed by your company and business relationships specifically with contractors/agents acting on behalf of your company as their actions may be ascribed to you.

In this instance, you would benefit financially from a close economic association with a person who has a direct interest in an enterprise, interest or transaction. The economic association is one of broker of record for the agent who is operating under your broker's license. This would not be the case if you did not receive a commission, percentage of payout or some other benefit from the transactions. However, as stated earlier, agents from your firm are working with Casa de Maryland to locate sites in the County and with Physical and Sports Rehab who has an interest in leasing space at Southlake. Although you are not acting as an agent in these cases, any funds received by your agents related to either transaction extends to you as the owner of the brokerage firm. Thus, you would receive a financial benefit as a result of being the owner of the brokerage firm.

Therefore, it is not permissible for an agent within your office to work with Casa de Maryland to locate a site to lease in Southern Prince George's County, Maryland and another agent in your office to work with Physical and Sports Rehab who wishes to lease space at Southlake. Please note, this opinion does not address any actions that may be taken by other bodies that might have oversight in this matter.

Lastly, please understand that pursuant to Ethics Code Section 2-297, the Board of Ethics can take appropriate action if you are found to be in violation of any provision of the Prince County Ethics Code.

I trust the information provided herein will assist you in your future endeavor. 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 that reads "Cassandra Burckhalter". The signature is written in a cursive, flowing style.

Cassandra Burckhalter
Board Chair

cc: Robin Barnes Shell, Executive Director, OEA

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