

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 06-29
DECEMBER 15, 2006

RE: May spouse of PVA serve as a real estate agent?

DECISION: Yes, within limitations.

This opinion is issued in response to your November 21, 2006, request for an Advisory Opinion from the Executive Branch Ethics Commission (“Commission”). This matter was reviewed at the December 15, 2006, meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. You were recently elected as a Property Valuation Administrator (“PVA”) in your county. You are a licensed real estate appraiser, but intend to do no appraising whatsoever during your term as PVA. However, your spouse is an active real estate agent in your local county, and thus you ask the following:

1. *Are there any administrative opinions regarding the spouse of a PVA being a real estate agent?*
2. *If not, what is the opinion of the commission as to the spouse of a PVA being a real estate agent?*
3. *What measures would you and/or the commission recommend to avoid any “actual” conflicts of interest?*

In Advisory Opinion 05-22 (a copy of which is enclosed), the Commission opined that a PVA is prohibited from performing real estate appraisals or serving as a sales broker for sales associates in the county where he is a PVA. However, the Commission believes that such a prohibition does not apply to a spouse of a PVA, who is employed as a real estate agent, provided a clear separation is made between the spouse’s work and the office of the PVA.

Specifically, as provided by KRS Chapter 11A.005(1) and 11A.020(1) below, you should not use your position in the assessment of property or in any other way to give a financial gain or an advantage to your spouse in real estate matters. Your spouse should not have access to any PVA records or information that is not readily available to the general public. Further, your spouse should not provide any information to you regarding potential property listings or sales that could affect your independence in judgment regarding property assessment.

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KRS 11A.005(1):

It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

- (a) A public servant be independent and impartial;
- (b) Government policy and decisions be made through the established processes of government;
- (c) A public servant not use public office to obtain private benefits; and
- (d) The public has confidence in the integrity of its government and public servants.

KRS 11A.020(1):

No public servant, by himself or through others, shall knowingly:

- (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
- (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
- (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
- (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

Sincerely,
EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: John A. Webb

Enclosures: Advisory Opinion 05-22