

ADVISORY OPINION 98-11

February 26, 1998

RE: May PVA employee work as real estate sales associate?

DECISION: Yes, if official duty does not involve the valuation of property or access to information not freely available to the general public.

This opinion is in response to your January 27, 1998, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 26, 1998, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed full-time by the Knox County Property Valuation Administrator's ("PVA") office. Recently, you completed the educational requirements and examination to become a licensed real estate sales associate. Your supervisor has informed you that it would be a conflict of interest for you to work in any real estate business while employed by a PVA office. For financial reasons and health insurance coverage, you would like to continue your present work with the PVA office and also sell real estate during the evenings and on weekends. You ask for advice in this matter.

KRS 11A.020(1) provides:

- 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.

The Commission believes that a conflict of interest will exist if, as a part of your official duty, you are involved in valuing property, and you also market such property as part of your private business and receive a financial gain based on the value or selling price of the property. Such authority to value property which you are attempting to sell privately may give you an advantage over the general public.

If your official duty for the PVA's office does not involve the valuation of property, you do not attempt to influence those individuals responsible for the valuation of property, and you do not have access in your public position to information relevant to your

private business that is not freely available to the general public, then you are not prohibited from acting as a real estate sales associate. However, you should not conduct any business on state time or property, including phone calls that relate to your real estate business.

Even though you may not be prohibited from working as a real estate sales associate, as a public servant you should take great care not to use your official position in any way that would give you an advantage in your private business. The Commission also encourages you to strive to avoid even the appearance of a conflict of interest.