

Executive Branch Ethics Commission
ADVISORY OPINION 07-25
August 24, 2007

RE: May PVA field representative work privately as appraiser in his own county?

DECISION: Yes, if data collected as a part of official duty is not used for PVA appraisals; however an appearance of a conflict may still exist.

This opinion is issued in response to your July 30, 2007 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 24, 2007 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. You are employed as a field representative for a local Property Valuation Administrator ("PVA") to gather and collect data pertaining to residential properties within your county. You also are a Kentucky state-certified residential real property appraiser licensed to perform real-estate appraisals within the state. Management personnel within the PVA office have told you that you are not allowed to perform appraisals within your local county due to it being a "conflict of interest."

You have reviewed the Commission's Advisory Opinion 98-11 which addressed whether an employee of a PVA office could work as a real estate associate. You provide that the opinion states that a PVA employee is not prohibited from working as a real estate sales associate as long as the employee's official duty does not involve the valuation of property, the employee does not attempt to influence individuals responsible for the valuation of property, and the employee does not have access through his position to information that is relevant for his private work that is not readily available to the general public.

Given that information, it appears logical to you that you should not be prohibited from performing real estate appraisals within your county of employ as long as your official duties for the PVA office do not include the actual valuation of property, and as long as you do not attempt to influence individuals responsible for the valuation of property and do not have access to information that is not equally available to the general public. You state that all PVA information is available to the general public. Additionally, you understand that you may not

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conduct personal business, including taking phone calls, on state time or property. You believe that you have made every effort to avoid even the appearance of a conflict of interest.

You also have reviewed Advisory Opinion 05-22 which prohibits an elected PVA from performing real estate appraisals and selling/marketing real estate. You do not believe that this opinion applies to you because you do not place values on properties as part of your official duties as a field representative for the PVA. You ask if you may perform real property appraisals in your county of employ.

The Commission agrees that if it is not a part of your official duty as determined by your superiors to have any involvement whatsoever in the conduct of property appraisals for the PVA, it does not appear that an actual conflict of interest will exist for you to be involved in real-estate appraisals privately. However, just the fact that you are an employee of your county PVA office may give the appearance that you are using your official position to give yourself an advantage in your private business. Further, if the information that you are collecting as part of your official duty regarding residential properties is used in the determination of the appraisals of the properties for the PVAs, an actual conflict of interest may exist for you.

Moreover, the Commission also believes that neither the Department of Revenue, nor a local PVA office, is prohibited from implementing in-house policies regarding approval of its employees' outside employment that may be more restrictive than the Executive Branch Code of Ethics in order to avoid even an appearance of a conflict of interest for a PVA office.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: John Webb