

Executive Branch Ethics Commission

ADVISORY OPINION 07-5

February 23, 2007

RE: May employee rent unit to recipient of Safe Havens program voucher?

DECISION: No.

This opinion is issued in response to your February 12, 2007 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 23, 2007 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. You are a Section 8 and Safe Havens Housing Quality Standards ("HQS") Inspector for the Kentucky Housing Corporation ("KHC") in Frankfort. In addition, you own rental property for which you receive Section 8 rent via the Lexington Housing Authority. Although KHC normally does not administer or provide Section 8 funds to the Lexington Housing Authority, KHC recently had a surplus of Section 8 funds for the 87 counties for which it does administer the Section 8 program, and has offered some of its surplus Section 8 monies to Fayette County for use during the current fiscal year.

You have recently been contacted by a young lady with a Safe Havens domestic violence voucher that is provided by the Kentucky Housing Corporation, who wishes to rent one of your housing units. The young lady's sister rents from you, but not through any specialized program. For protective reasons, the young lady wants to live next door to her sister. The Safe Havens vouchers are administered by KHC for one year and then are turned over to a local agency for the duration of the voucher period. For this particular renter the Lexington Housing Authority would provide her housing assistance after her first year is provided by KHC under the Safe Havens program.

You also have received a request from the housing specialist at the Bluegrass Domestic Violence Program requesting that you be able to rent to the participants of the Safe Havens program and noting that affordable units are difficult to find in the county in which you live. Thus, you point out that due to the lack of affordable housing in the area you do not believe that you are competing with other area landlords that you inspect. You will not inspect your own

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units, but they will be inspected by another HQS housing inspector at KHC. Further, you state that the potential tenant wants to rent from you by choice. You ask if you may rent a unit to the young lady and other similar clients.

KRS 11A020(1)(a), (c) and (d) provide:

- (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;
 - ...
 - (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.

In Advisory Opinion 07-3 (a copy of which is enclosed), the Commission advised that a public assistance program specialist for a regional office within the Department of Community Based Services, Cabinet for Health and Family Services could not have as tenants individuals who receive family support benefits that are provided by his agency through programs he oversees or with which he works closely.

Further, in Advisory Opinion 94-44 (a copy of which is enclosed), the Commission advised that a Department of Social Services employee who was responsible for determining eligibility of applicants to receive entitlement benefits for payments to day-care centers and also was responsible for investigating child abuse allegations at day-care centers could not enroll children, in a day-care center he owned, who were recipients of child care benefits from the agency for which the employee worked. In Advisory Opinion 95-34 (a copy of which is enclosed), the Commission addressed the same situation; however the employee was being considered for a new position in which he would not have any responsibilities concerning day-care centers or entitlement funds for child care benefits. The Commission advised in that situation that the employee could enroll children in his day-care center provided neither he, nor his co-workers, have any responsibility for the investigation of child care centers or approval of applicants for child care benefits, and provided the children are not clients whom he serves as a child protective services worker.

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Accordingly, the Commission advises that because you have responsibilities for KHC that involve the inspections of Safe Havens housing you should not have as tenants of your rental property individuals who receive benefits from KHC through the Safe Havens program. If you were to have such tenants, any action taken by you in matters of inspections of other rental properties in the area could be viewed as an attempt to use your influence in a matter that is a substantial conflict between your personal interest and your duties in the public interest.

Further, if you wish to continue to receive Section 8 monies for your rental properties from the Lexington Housing Authority which has been provided by KHC, you should not be involved in any inspections of rental property in the local area that is in competition with your property (those which receive Section 8 monies provided to the Lexington Housing Authority by KHC). Again, such action taken by you in matters of inspections of other rental properties in the area with which you compete could be viewed as an attempt to use your influence in a matter that is a substantial conflict between your personal interest and your duties in the public interest, and may also be a use of your official position to give you an advantage.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: John A. Webb

Enclosures: Advisory Opinion 94-44
Advisory Opinion 07-3
Advisory Opinion 95-34