

Complaint Opinion 13-01

The Ethics Commission received a complaint filed by an individual on July 22, 2013 against a County Commissioner alleging three violations of the County Ethics Law by the County Commissioner's participation in matters related to Four Seasons development project. The County Commissioner filed a request for an advisory opinion regarding the same subject matter. A response to the Complaint by the County Commissioner through his counsel was received by the Ethics Commission prior to the Board meeting of August 26, 2013.

The first allegation was that the County Commissioner violated §8-11 A (1) by supporting the Four Seasons Wetlands application to the Board of Public Works because the complainant believed that his actions in an official capacity had a direct financial impact on him and his business, a restaurant located near the Four Seasons proposed project. The Ethics Commission dismissed the Complaint as legally insufficient under §8-10 G (4) (a), as no facts were alleged, in the context of the respondent's response, that provided any evidence of an actual private gain that was distinguishable from any other business in the area.

The second allegation was that the County Commissioner violated §8-11 A (2) by supporting the Four Seasons Wetlands application to the Board of Public Works because the complainant believed that he may hold a mortgage with a bank for his restaurant that is located near the Four Seasons proposed project, and that the contractual relationship would impair his impartiality and independent judgment as a county official. The Ethics Commission dismissed the Complaint as legally insufficient under §8-10 G (4) (a), as no facts were alleged, in the context of the respondent's response, that provided any evidence of any actual activity related to the alleged contractual relationship with the bank that impaired his judgment.

The third allegation was that the County Commissioner violated §8-11 A (8) by sending a support letter to the Governor on County stationery regarding the Four Seasons Project, which the complainant believed to be using the prestige of their office for the private gain of themselves or another citizen. The Ethics Commission dismissed the Complaint as legally insufficient under §8-10 G (4) (a), as no facts were alleged, in the context of the respondent's response, that provided any evidence of how the sending of the letter provided any gain for the County Commissioner or another citizen.

In deciding the Complaint, the Ethics Commission relied on its prior decisions, most importantly *In the Matter of Barry Waterman*, Queen Anne's County Circuit Court, # 17-C-11-15807 (2011), as well as Complaint No.(s) 10-01, 10-02, and 12-04.

Further, the Ethics Law provides exceptions in §8-11 C (1) in which this County Commissioner had disclosed his financial interest in the restaurant located near the Four seasons project on his financial disclosure form prior to running for office, and for all years since his election,. Further, The County Commissioner was clear in his campaign his position as it relates to the Four Seasons project. While the Ethics Commission did not rely on this exception in dismissing the Complaint, it was considered and was a part of the discussion, and important in noting for future reference.

As the advisory opinion request was from the County Commissioner regarding the same subject matter and same alleged actions, the Ethics Commission took no specific action believing this opinion would resolve the request.