

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
)
 IN THE MATTER OF:)
)
 COMPLAINT C2013- 015)
)
)
 Calvin Blanton,)
 Complainant;)
)
 vs.)
)
 Jake Evans,)
 Respondent.)
 _____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

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 STATE ETHICS
 COMMISSION

Pursuant to Section 8-13-320(10)(i), Code of Laws for South Carolina, 1976, as amended, the State Ethics Commission reviewed the above captioned complaint on November 28, 2012, charging the Respondent, Jake Evans, with a violation of Section 8-13-700(B), Code of Laws for South Carolina, 1976, as amended.

Present at the meeting were Commission Members Phillip Florence, Jr., Chair, E. Kay Biermann-Brohl, JB Holeman, George Carlton Manley, Jonathan H. Burnett and Richard H. Fitzgerald. Also present were the Commission's Executive Director, Herbert R. Hayden, Jr., and his immediate staff.

ALLEGATIONS

The following allegations were considered:

On August 17, 2012 the State Ethics Commission received a complaint filed by Calvin Blanton, Interim Town Manager, Town of Atlantic Beach, SC against Jake Evans, Council person, Town of Atlantic Beach, SC. The complaint alleged that on December 20, 2010 the Respondent voted on Ordinance 10-2010 which authorized the exchange of lot 221 in the Pearl

Beach section of Atlantic Beach for lot 217. Lot 221 was donated to the Town in 2003 by Celeste Beck Abdallah. Earlene Evans Woods purchased lot 217 on August 12, 2004 from Celeste Beck Abdallah. The Respondent voted to give the Town's lot of lesser value to his mother, Earlene Evans Woods in exchange for her lot of lesser value.

FINDINGS OF FACT

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. The Respondent is currently serving as Mayor of the Town of Atlantic Beach, having formally served as a Council Member for the Town of Atlantic Beach. The Respondent said that at the time the city ordinance came before council, he knew the matter involved property owned by his mother. Prior to the vote on December 20, 2010, the Respondent consulted the Town Attorney, John Zilinsky. The Respondent said he was advised by Mr. Zilinsky that since his mother did not reside in his household and she was not claimed by the Respondent for income tax purposes, the Respondent could vote on the ordinance.
2. According Mr. William Booker, who was the Town manager at the time, the ordinance was presented to Council and he was at the Council meeting on December 20, 2010. Mr. Booker said he heard Mr. Zilinsky tell the Respondent that the Respondent could vote on the matter because the Respondent's mother was not considered immediate family.
3. A review of the Town of Atlantic Beach minutes dated December 13, 2010 revealed that the aforementioned ordinance involved the exchange of property donated to the city for another piece property owned by the Respondent's mother.

4. According to Horry County Land Records, even though one parcel contained an easement for power lines the two parcels mentioned in the ordinance had equal fair market value.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commission concludes, as a matter of law:

1. At all times relevant the Respondent, Jake Evans, was a public official as defined by Section 8-13-100(27).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 8-13-700(B), 1976 Code of Laws of South Carolina, provides that no public official may make, participate in making, or in any way attempt to use his office to influence a governmental decision in which he, **a family member**, an individual with whom he is associated, or a business with which he is associated has an economic interest. (Emphasis added.)

DISCUSSION

On the date the Respondent voted on the ordinance, the language in Section 8-13-700(B) included “member of his immediate family” which would not have included the Respondent’s mother. In 2011, Section 8-13-700(B) was amended, and “member of his immediate family” was replaced with “family member” which does include a public official’s mother. Therefore, should the same action have taken place today, a violation would have occurred.

In this case no violation occurred; however, anytime a public official participates in an

action which in any way impacts the financial interest of a relative, regardless of relationship, it creates, at the very least, an appearance of impropriety, and such action should be avoided.

DECISION

THEREFORE, based upon evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, Jake Evans, violated Section 8-13-700(B), S.C. Code Ann., 1976, as amended. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i), Code of Laws for South Carolina, 1976, as amended, and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 16th DAY OF JANUARY 2013.

STATE ETHICS COMMISSION


PHILLIP FLORENCE, JR.
CHAIRMAN

COLUMBIA, SOUTH CAROLINA