

SUBJECT: DHEC EMPLOYEE WITH INTEREST IN MOBILE HOMES

SUMMARY:

A DHEC employee would not be prohibited from placing mobile homes on a parcel of land, however, he is advised to follow the disclosure and disqualification procedures of Section 8-13-700(B) on matters affecting those mobile homes.

QUESTION:

The Director of the Division of Regulation and Enforcement of the Bureau of Environmental Health at DHEC requests an opinion concerning the planned activity of a regional employee. The Bureau of Environmental Health is responsible for administering and enforcing state laws and regulations concerning individual septic tank systems, mobile home parks, and other facilities. The employee, who is Supervisor of Environmental Health activities for the Low Country Health District, would like to place four mobile homes on property in Jasper County. According to DHEC regulations, a mobile home park is defined to mean a parcel of land encompassing five or more mobile home sites for rent or lease. Jasper County has a county ordinance in which three or more mobile homes on a parcel of land constitutes a mobile home park. While the employee does not enforce county ordinances, the Bureau strives to assist and work closely with all governmental entities. The Director questions whether the employee could place the mobile homes without violating the Ethics Reform Act. Appropriate staff from outside the District would evaluate and approve any septic tank permits or other amenities required.

DISCUSSION:

This opinion is rendered in response to a letter dated February 19, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-730 provides in part as follows:

An employee of the regulatory agency which regulates a business with which he is associated annually shall file a statement of economic interests notwithstanding the provisions of Section 8-13-1110. No person may be an employee of the regulatory agency which regulates a business with which he is associated if this relationship creates a continuing or frequent conflict with the performance of his official responsibilities.

The employee would not be prohibited from being associated with such a mobile home park provided it did not create a frequent or continuing conflict with his position. The employee is advised of the provisions of Section 8-13-700(B) which provides in part as follows:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

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(3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

The employee is advised to follow these provisions whenever required to take action such as approval or inspection of the septic tank system or other actions affecting the proposed mobile home placements.