

SUBJECT: APPRAISAL WORK BY TAX COMMISSION EMPLOYEES

SUMMARY:

Employees of the Tax Commission are not prohibited from conducting appraisals of property not within the responsibility of the Commission consistent with the off-duty employment guidelines and the guidelines established by the Tax Commission.

QUESTION:

The Executive Director of the SC Tax Commission questions whether employees of the Property Division may conduct private appraisals of properties which are appraised by the Commission. Such appraisals have been allowed under the following conditions:

- (1) No private appraisal may be performed on property which the Tax Commission is responsible for appraising. The appraisals are being conducted on residential, agricultural, and commercial property for purposes of resale, refinancing, mortgage lending, or to determine the fair rental value. The Tax Commission does not appraise such properties but does have general oversight authority over county-appraised property.
- (2) The appraisals contain disclaimers that the appraisal cannot be used for tax purposes and that the appraiser cannot represent any person before a state agency.
- (3) No confidential information is utilized as a result of Tax Commission responsibilities which will affect the economic interests of the appraiser or any of that appraiser's associations.
- (4) The work must be accomplished outside the normal work hours and not interfere with regular duties.
- (5) No state-owned materials or equipment may be used.
- (6) Appraisals for lobbyists or lobbyist principals in accordance with the provisions of Section 2-17-80.

DISCUSSION:

This opinion is rendered in response to a letter dated March 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.

In prior advisory opinions, the State Ethics Commission has advised that a public employee may engage in outside employment consistent with established guidelines: (1) that no public materials or equipment are utilized, except as provided by Section 8-13-700(A), (2) such work is engaged in on the employee's own time, (3) the work does not interfere with the needs of the agency, and (4) the public position is not utilized to obtain or continue such employment.

The State Ethics Commission calls attention to 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;

Further, the Commission calls attention to the provisions of Section 8-13-705(A) and (B) which provide:

(A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

- (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
- (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
- (3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly,

knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

- (1) influenced in the discharge of his official responsibilities;
- (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
- (3) induced to perform or fail to perform an act in violation of his official responsibilities.

The State Ethics Commission would find it inappropriate for a public employee to be accepting compensation from a person whose activities are subject to the employee's inspection, review, or administrative action. Provided that such work is engaged in consistent with the off-duty guidelines and the guidelines established by the Tax Commission and the advice rendered herein, the Commission does not believe that such work is prohibited.