

# How to Avoid a Conflict of Interest

**L**ET'S SAY YOU HAVE JUST been appointed to your local planning commission. You are now a public official who must abide by certain ethical standards—and, most important, avoid conflicts of interest. But what exactly is a conflict of interest?

The short answer: As a public official, you are prohibited from doing business in a private capacity that conflicts in any way with the board or commission on which you serve. Most states have conflict of interest laws that require public officials to steer clear of any involvement with work that is in any way related to their government activities or that could lead to legal entanglements. As the Illinois Supreme Court ruled in the 1976 case of *Brown v. Kirk*, “the faithful performance of official duties is best secured if a governmental officer . . . is not called upon to make decisions that may advance or injure his individual interest.”

## The long answer

The general rule is that commissioners or board members should not have a personal or financial interest in any contractual, work-related, or business matter put before the board or commission. This would include working for or personally benefiting from any board or commission action.

A personal benefit could include a non-financial benefit like free office space or a zoning change.

As a member of a planning commission or a zoning board of appeals (or similar body), you should review the rules with the department staff before accepting your new position. This does not mean you can no longer participate in other community activities, but it does mean your actions will be scrutinized. Not only will you be subject to federal and state conflict of interest laws, but you will also have a responsibility to represent the public by demonstrating integrity and fairness.

As a member of the commission, you must represent the public with integrity and fairness.



Free office space or a zoning change could be a conflict of interest.

## Living conflict-free

In my more than 40 years of experience as a board member and a professional planner in various communities around the U.S., I have been very conscious of avoiding ethical violations. I currently hold elected office as a member of the independent park district board in my suburban Chicago community. Before my election, my wife served on the board of a nonprofit group in the same suburb. Legally, she could have remained on the nonprofit's board. However, she decided to step down in order to avoid even the appearance of a conflict of interest.

Another example: Early in my planning career, I worked for another suburb. A local architect who held elective office on the village board lobbied staff members and planning commissioners to support a project his client was proposing. I reported the matter to the village

manager, who referred it to the village attorney. That was the end of the architect's contact with the commission or the staff.

Conflict of interest is also a violation of ethical practices. It is unethical for public officials to use the knowledge and power of their position to further their private interests. Citizens have a right to expect fair and honest treatment in a transparent climate that supports high ethical standards.

Avoiding even the appearance of a conflict of interest bolsters public confidence in government and in the planning process.

In small communities, where only a few people step forward to serve on boards and commissions, often in a volunteer capacity, it can be challenging to establish and maintain boundaries with friends and neighbors who have special requests or opinions. But when citizens agree to join a board or commission, their first duty is to serve the public interest.

If, for example, you are both a planning commissioner and a member of the board of directors of your homeowners association, there are times when you must recuse yourself. An example might be when the association is fighting the rezoning of a neighborhood property. That's when you recuse yourself from the plan commission's discussion, even leaving the room while discussion and voting are taking place. Above all, you do not cast a vote on the topic.

The best path is to be mindful of pending actions before the commission and avoid even the appearance of a conflict of interest. For a more in-depth discussion of conflict of interest and other ethical issues, I recommend *Everyday Ethics for Practicing Planners*, by Carol D. Barrett, FAICP (published by APA's Planners Press in 2001) and *The Ethical Planning Practitioner* by Jerry Weitz, FAICP (APA Planners Press 2015). ■

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