



STATE OF ALABAMA ETHICS COMMISSION



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February 7, 2007

ADVISORY OPINION NO. 2007-06

Chief Jeff Laduron
Chief of Police
City of Linden, Alabama
211 North Main Street
Linden, Alabama 36748

Conflict Of Interest/City Of Linden,
Alabama, Contracting With Linden Police
Officer For The Rental Of A Mobile Home
In Exchange For The Providing Of Security
For The City Property On Which The Trailer
Is Located During The Officer's Off-Duty
Hours

The City of Linden, Alabama, and a member
of the City of Linden Police Department,
may enter into a rental agreement allowing
the officer to live rent-free in a mobile home
owned by the City and located on City
property in exchange for the officer
providing security for the City property
during the officer's off-duty hours, when the
arrangement is subject to a rental agreement
made a part of the officer's employment
contract with the City, and clearly sets out
the obligations of all parties concerned; and
further, where a public interest is served.

Dear Chief Laduron:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of
this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May the City of Linden, Alabama, enter into a rental agreement allowing a member of the Linden Police Department to live in a mobile home located on City property rent-free in exchange for the officer providing security for the City property during his or her off-duty hours?

FACTS AND ANALYSIS

The facts as have been presented to this Commission are as follows:

The Linden City Council is interested in determining whether it is legal for the City to purchase a used mobile home and park it on City property for a Linden police officer to rent. The mobile home would be parked at Austin Park. This is a City-owned park, and the City just spent \$38,000 in playground equipment, and they are planning to spend another \$20,000 at this park. The park is located near Austin Junior High on MLK Drive in Linden. In the past, this park area has been used as a hangout for drug deals and drinking. The City is interested in cleaning up the area and making it safer for the younger children.

They feel that putting a police officer there would help stop any vandalism to the park and help stop the illegal activities. The officer would be a full-time certified officer who works for the Linden Police Department. He would be responsible for the rent and the utilities.

Chief Laduron has provided to the Commission a proposed rental agreement to be entered into between the City and the police officer. The agreement clearly sets out the responsibilities of each of the parties. Under the rental agreement, the mobile home will be provided rent-free to the officer in exchange for his providing security services.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(23) defines a public employee as:

“(23) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income.”

Section 36-25-1(8) defines a conflict of interest as:

“(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.”

Section 36-25-5(a) states:

“(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.”

Section 36-25-5(c) states:

“(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy.”

As a general rule, the Ethics Law prohibits the use of public equipment, facilities, etc. from being used for one's private interests. The law does allow such use, however, when it is done pursuant to a lawful employment agreement regulated by agency policy.

Based on the information provided to us, the City of Linden intends to clearly set out the parameters of the arrangement and clearly has a public interest in seeing that its property is protected.

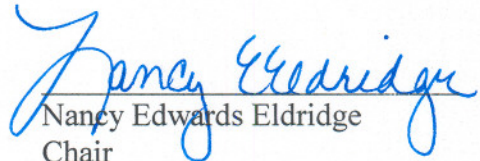
Based on the facts as provided and the above law, the City of Linden, Alabama, and a member of the City of Linden Police Department, may enter into a rental agreement allowing the officer to live rent-free in a mobile home owned by the City and located on City property in exchange for the officer providing security for the City property during the officer's off-duty hours, when the arrangement is subject to a rental agreement made a part of the officer's employment contract with the City, and clearly sets out the obligations of all parties concerned; and further, where a public interest is served.

CONCLUSION

The City of Linden, Alabama, and a member of the City of Linden Police Department, may enter into a rental agreement allowing the officer to live rent-free in a mobile home owned by the City and located on City property in exchange for the officer providing security for the City property during the officer's off-duty hours, when the arrangement is subject to a rental agreement made a part of the officer's employment contract with the City, and clearly sets out the obligations of all parties concerned; and further, where a public interest is served.

AUTHORITY

By 3-0 vote of the Alabama Ethics Commission on February 7, 2007.


Nancy Edwards Eldridge
Chair
Alabama Ethics Commission