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October 21, 1997

ADVISORY OPINION NO. 97-95

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Conflict Of Interests/County Tax Appraiser
Serving On City Planning Commission.

The Chief Appraiser for the Montgomery County Tax Appraiser's Office may serve on the City of Montgomery Planning Commission as there is no nexus between the two positions; provided, his service on the City Planning Commission be done on his own time, whether on annual leave or after hours.

Dear Mr. McCollum:

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 a County Tax Appraiser serve on a City Planning Commission?

FACTS AND ANALYSIS

Tommy Miller is currently employed by the Montgomery County Commission as the Chief Tax Appraiser. On October 7, 1997, he was recommended for appointment to the City of Montgomery Planning Commission by one of the members of the City Council.

The Montgomery Planning Commission Members are appointed by the City Council and their primary responsibilities are to regulate zoning matters relating to the planning and development of the growth of the City of Montgomery.

Tommy Miller is a Merit employee with the Tax Appraiser's Office for Montgomery County. His job responsibilities involve appraising property for ad valorem tax purposes.

There is no overlapping jurisdiction between the Montgomery County Commission or the County Tax Appraiser's Office and either the City of Montgomery or the City of Montgomery Planning Commission; and further, the responsibilities of the Tax Appraiser's Office and the Montgomery City Planning Commission do not overlap or have any nexus.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) states:

"(24) 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 36-25-5(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 36-25-1(8) states:

"(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."

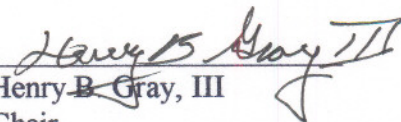
Based on the facts as provided and the above law, it does not present a conflict of interests for a County Tax Appraiser, who is a Merit System employee with the County, to serve on a City Planning Commission.

CONCLUSION

The Chief Appraiser for the Montgomery County Tax Appraiser's Office may serve on the City of Montgomery Planning Commission as there is no nexus between the two positions; provided, his service on the City Planning Commission be done on his own time, whether on annual leave or after hours.

AUTHORITY

By 3-0 vote of the Alabama Ethics Commission on October 21, 1997.


Henry B. Gray, III
Chair
Alabama Ethics Commission