



STATE OF ALABAMA ETHICS COMMISSION



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April 7, 2021

ADVISORY OPINION NO. 2021-04

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Personal Gain / Public Official Leasing from
Airport Authority

A public official may lease property from the Board on which they sit provided they do not use their position to secure more favorable lease terms than any other tenant and they abstain from any vote as a Board member that would result in the public official receiving any benefit that is different from the benefit received by every other tenant or in which he has any financial gain or interest.

Dear Mr. Perry:

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.

FACTS

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

Vince Boothe is a member of the Fairhope Airport Authority Board. He was nominated by the Mayor of Fairhope and his appointment was approved by the Fairhope City Council in 2017.

His term ends in 2023. Mr. Boothe would like to enter into a lease agreement for land owned by the Airport Authority. Once the lease is in place, Mr. Boothe would be personally responsible for constructing a hangar on the lot he has leased, as is every other lessee. The construction of the hangar must meet all the guidelines set out in the lease and Mr. Boothe must go through the same approval process as every other lessee. The proposed lease between Mr. Boothe and the Airport Authority is a standard lease that complies with the Federal Aviation Authority's Non-Discrimination Policy and its terms are the same as every other lease agreement between other tenants and the Airport Authority. Mr. Boothe has not received any favorable rates or terms based on his position as a Board member.

QUESTIONS PRESENTED

May Mr. Boothe enter into a ground lease with the Fairhope Airport Authority while he is a member of the Fairhope Airport Authority Board?

ANALYSIS

Mr. Boothe is a public official by virtue of his appointment to the Fairhope Airport Authority Board.¹ As a public official, Mr. Boothe is prohibited from using his position for personal gain for himself, a family member, or a business with which he is associated.²

The proposed lease between the Fairhope Airport Authority and Mr. Boothe is the same standardized lease containing the same terms as every lease between the Fairhope Airport Authority and every tenant. The proposed lease contains no more favorable rates or terms as any other tenant. The lease must be approved by the Airport Authority and contains terms requiring approval for any construction that occurs on the property. Provided Mr. Boothe has not obtained any more favorable terms than are available to every other tenant, he may enter into the lease without violating Ala. Code § 36-25-5(a). If Mr. Boothe executes the lease, he must abstain from voting to approve the lease between him and the Airport Authority. He must also abstain from any vote that would provide him with a benefit that is different from any other tenant or in which he has any financial gain or interest.³ If such a vote is presented to him, he should either abstain or seek additional guidance from the Commission.

CONCLUSION

A public official may lease property from the Board on which they sit provided they do not use their position to secure more favorable lease terms than any other tenant and they abstain from

¹ Ala. Code § 36-25-1(27)

² Ala. Code § 36-25-5(a)

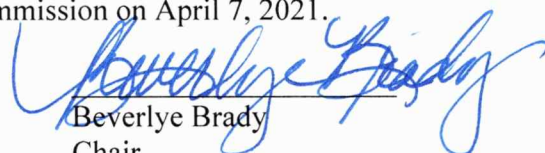
³ Ala. Code § 36-25-9(c)

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any vote as a Board member that would result in the public official receiving any benefit that is different from the benefit received by every other tenant or in which he has any financial gain or interest.

AUTHORITY

By 5/0 vote of the Alabama Ethics Commission on April 7, 2021.



Beverlye Brady
Chair
Alabama Ethics Commission