

NEW YORK STATE BAR ASSOCIATION MUNICIPAL LAW SECTION

A PRACTICAL GUIDE TO GOVERNMENT ETHICS

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Presented by:

Steven G. Leventhal, Esq.
Leventhal, Sliney & Mullaney, LLP
15 Remsen Avenue
Roslyn, New York 11576
(516) 484-5440, ext. 101
sleventhal@ls-llp.com

ETHICS IN A MODERN, PLURALISTIC SOCIETY

- Morality and Ethics distinguished
- *Malum in Se* and *Malum Prohibitum* compared

PURPOSES OF GOVERNMENT ETHICS LAWS

- Fostering public confidence
- Guiding and protecting honest officials (prevention)

THREE PILLARS OF GOVERNMENT ETHICS

- Clear, comprehensive ethics code
- Reasonable disclosure requirements
- Effective enforcement

GOVERNMENT ETHICS LAWS AND AUTHORITY: RULES OF THE ROAD

- NY General Municipal Law, Article 18
- Various state constitutional and statutory provisions
- Case law (e.g. dual office holding; prohibited appearance of impropriety)
- Penal Law Articles 195 (official misconduct) and 200 (bribery, unlawful gratuities)
- Federal honest services fraud; Hatch Act
- Informal opinions of NYS Attorney General and NYS Comptroller
- Local Municipal Ethics Code
- Advisory opinions of local Board of Ethics
- Regulations and policies of individual agencies
- NY Public Officer's Law sec. 74 (state employees)

HOW TO ANALYZE A GOVERNMENT ETHICS PROBLEM

- Start with NY General Municipal Law, Article 18
- Always Check Local Municipal Ethics Code
- No Statute Violated? Consider “Appearances”

**IF IN DOUBT, ASK BOARD OF ETHICS FOR FREE,
CONFIDENTIAL ETHICS ADVICE**

NY GENERAL MUNICIPAL LAW ARTICLE 18

WHO MUST COMPLY?

- “Municipal Officers and Employees” – paid or unpaid, including members of boards and commissions

PROHIBITED INTEREST IN CONTRACT WITH MUNICIPALITY

Applicable: Gen. Mun. Law §§800 - 804, 805

- Penalty for violation: misdemeanor, contract void
 - misdemeanor (if knowing and willful)
 - contract void (if willful)

PROHIBITED INTEREST IN CONTRACT WITH MUNICIPALITY

- First element of violation:
 - Contract
 - a claim against the municipality is considered a contract with the municipality
 - the official does not have to be a party to the contract

PROHIBITED INTEREST IN CONTRACT WITH MUNICIPALITY

- Second element of violation:
 - Financial benefit
 - as a result of the contract, a financial benefit will be received by the official, or the official's spouse, minor children, dependents, outside business or employer, or a corporation in which the official owns stock

PROHIBITED INTEREST IN CONTRACT WITH MUNICIPALITY

- Third element of violation:
 - Control
 - the official has control over the contract. (i.e. the official, either as an individual or as a member of the board, has the power or duty to negotiate, prepare, or approve the contract, or approve payment under it, or audit bills under it, or appoint anyone who does)

PROHIBITED INTEREST IN CONTRACT WITH MUNICIPALITY

- A prohibited interest in a contract is not cured by:
 - Recusal
 - Abstention
 - Disclosure
 - Competitive bidding
 - Emergency

PROHIBITED INTEREST IN CONTRACT WITH MUNICIPALITY

- Exceptions; Disclosure of Interest
 - None of the exceptions apply (among others):
 - a contract entered into before the official was elected or appointed - but renewal is prohibited (§802)
 - the contract is an employment contract between the municipality and the official's spouse, minor child, or dependent
 - a contract with a person or firm that employs the official, provided the official has nothing to do with the contract, and further provided that the official's compensation at the firm will not be affected by the contract
 - a contract with a corporation in which the official owns less than 5% of the outstanding stock (§802)
 - official's total annual consideration from all contracts is less than \$750 (§802)
 - a contract with a not for profit corporation (§802)
 - acquisition of real property through condemnation proceedings

In most cases, an officer or employee must disclose his or her interest in writing.

PROHIBITED INTEREST IN CONTRACT WITH MUNICIPALITY

- Summary: Prohibited Interest in a Municipal Contract
 - Contract + financial benefit + control = violation
 - Neither recusal nor public bidding will cure the violation
 - Contract + financial benefit (but no control) = no violation
 - But disclosure required under §803
 - Contract + financial benefit + control + exception = no violation
 - In most cases, disclosure is required under §803

APPLICANT DISCLOSURE IN LAND USE APPLICATIONS

Applicable: Gen. Mun. Law §803

- Penalty for violation: **misdemeanor** (if knowing and intentional)
- Applicants in land use matters must disclose:
 - the name and address of officials who have an interest in the applicant
 - officials are deemed to have an interest in the applicant if they or a family member is the applicant, works for the applicant, has stock in the applicant, is a member of a partnership or association applicant, or has an agreement with the applicant to receive anything if the application is approved
 - the nature and extent of the interest

Note: by common law, official must recuse

N.Y. GEN. MUN. LAW, ART. 18: OTHER PROHIBITIONS

Applicable: Gen. Mun. Law §§805-a and 805-b

- Penalty for violation: disciplinary action (not misdemeanor)
- Standards of Conduct

REQUESTING OR ACCEPTING GIFTS

- An official may not request a gift, nor accept a gift (or aggregate gifts) worth \$75 or more, where it “might appear” that the gift was intended to reward or influence an official action.
- One court found that the language was "vague and without any standard or guidelines whatsoever" and accordingly unconstitutional under the due process and equal protection clauses of the state and federal constitutions.
- Whether or not the state law is unconstitutionally vague, it fails as an ethics regulation because it does not give adequate guidance and protection to municipal officers and employees.

REQUESTING OR ACCEPTING GIFTS

- Model Code: Davies, Fordham Urban Law Journal 1993:
 - No ***solicitation*** of gifts from person who has received or sought a benefit within previous 24 months
 - ***No acceptance of gifts*** from person who the official ***knows or has reason to know*** has received or sought a benefit within previous 24 months
- Compare NY LEGISLATIVE LAW §1-M “LOBBYING ACT”

NEW YORK'S BRIBERY STATUTES

- Penal Law prohibits the offering or conferring of a “**benefit**” on a public servant pursuant to an **agreement** or understanding that his or her “vote, opinion, judgment, **action**, decision or exercise of discretion as a public servant” would be **influenced**.
 - For purposes of the Penal Law, “benefit” is defined as “any gain or advantage to the beneficiary and **includes any gain or advantage to a third person** pursuant to the desire or consent of the beneficiary”
 - If the benefit is conferred as a **reward** for the official’s **actual violation** of his or her duty, it may also constitute a **felony**.
- The **donor and the beneficiary** are both subject to prosecution. The sentencing range increases with the amount of the bribe and the gravity of the official’s misconduct.

NEW YORK'S BRIBERY STATUTES

- In a bribery prosecution, the People must prove beyond a reasonable doubt that there was a **corrupt purpose** in making the offer or conferring the benefit.
- Even in the absence of a corrupt purpose, a defendant may be convicted of the **misdemeanor** of “giving or receiving **unlawful gratuities**” where a benefit is offered to or conferred upon an official “for having engaged in official conduct” which the official was required or authorized to perform, and for which that official was not entitled to any additional compensation.

WHY IS ETHICS TRAINING IMPORTANT?

- Private sector norm = public sector crime?
- The ethical standards of the public sector differ from those of the private sector.

WHY IS ETHICS TRAINING IMPORTANT?

On December 2, 2003, *Newsday* reported that: “a combative Nassau University Medical Center president testified at a state ethics hearing yesterday that he didn’t know it was improper to accept a hockey ticket, an expensive dinner and a trip to Missouri from companies bidding on a \$24 million contract...[He] also testified that he didn’t realize that working for the public benefit corporation classified him as a state employee...[He said] his \$45 rack-of-lamb dinner at Carltun-on-the-Park in Eisenhower Park and his trip to Missouri helped him negotiate a better price from the contractors who were picking up the tab.”

BUSINESS ENTERTAINMENT IN THE PRIVATE SECTOR

- Tax deductible as a business expense
- “Ordinary and necessary in the production of income”

BUSINESS ENTERTAINMENT IN THE PUBLIC SECTOR

We frequently hear Government employees claiming that they cannot be bought with a lunch and that to prohibit them from accepting an occasional meal from a person doing business with them impugns their integrity. We also are told that the private sector conducts business at such occasions and that Government employees must participate in the same kinds of activities in order to get the Government's position disseminated and understood. We sincerely hope and expect that Government employees cannot be bought for lunch; we do not agree that for the Government to have such a restriction impugns the integrity of its employees nor that the entertainment standard for businesses dealing with one another is the standard that should be adopted by a Government. The standards involved in public service are based on different considerations and include a concept of avoiding situations where an employee's integrity can be made an issue. (See endnote 1.)

DISCLOSURE OR PERSONAL USE OF CONFIDENTIAL INFORMATION

- The Undefined Term: Confidential Information
 - GML §805-a: Prohibits municipal officers and employees from disclosing or making personal use of confidential information acquired in the course of their official duties
 - But no definition – and no consensus as to meaning

PAYMENT FOR MATTERS BEFORE OWN AGENCY

An official may not be paid, or make an agreement to be paid, in connection with any matter before the official's agency, or an agency over which the official has jurisdiction or the power to appoint. (**Not** cured by recusal.)

CONTINGENT FEES FOR MATTERS BEFORE ANY AGENCY

An official may not be paid or make an agreement to be paid in connection with a matter before any agency of the municipality where the payment depends on action by the agency on the matter (but a fee based on the reasonable value of services is not prohibited).

NEEDED: A NEW STATEWIDE MUNICIPAL ETHICS CODE

- Rigid regulation: prohibited interests in municipal contracts
- The undefined term: confidential information
- The vague prohibition on gifts and favors
- Gaps in coverage
 - Two hats
 - Revolving door
 - Nepotism
- Onerous annual disclosure requirement
- Ineffective administration
- Failed legislative efforts at reform

LOCAL MUNICIPAL ETHICS CODE

- Authority derived from GML Art. 18
 - Filling gaps left by GML Art. 18
- Importance of Plain Language Guide
- Local code should incorporate GML Art. 18

TYPICAL PROVISIONS OF A MODERN LOCAL ETHICS CODE

- Conflicts of interest prohibited
- Recusal
- Disclosure of interest
- Misuse of municipal resources
- Gifts and favors; gratuities
- Representation of others; appearances before municipality
- Political solicitation of subordinates, vendors, contractors
- Disclosure of confidential information
- Solicitation of future employment
- Revolving door
- Inducement of others
- Prohibited appearance of impropriety
- Annual financial disclosure
- Powers and duties of ethics board
- Penalties for violation

COMMON LAW CONFLICTS OF INTEREST

- No need for statutory violation (see endnote 2)
- Courts have set aside board decisions where members with conflicts failed to recuse themselves and cast deciding votes

COMMON LAW CONFLICTS OF INTEREST

- Common law conflicts should be clear and obvious; not petty or speculative (see endnote 3)
- A disqualifying interest is one that is personal or private; not one that an official shares with all other citizens or property owners (see endnote 4)

POTENTIAL CONFLICTS

(FACT SENSITIVE, CASE BY CASE ANALYSIS)

- Business and employment relationships (see endnote 5)
- Financial interests (see endnote 6)
- Interest as a neighbor (see endnote 7)
- Prejudgment of applications (see endnote 8)
- Pending litigation (pending litigation against a municipal board or board members does not require recusal in a separate application by the plaintiff if the board or board members can act impartially, and where doing so would not create an appearance of impropriety) (see endnote 9)
- Family and personal relationships (a family or social relationship between an applicant and a board member does not, in and of itself, create a conflict of interest sufficient to require that member's recusal; the facts and circumstances must be judged on a case by case basis) (see endnote 10)

RECUSAL AND ABSTENTION DISTINGUISHED

- deliberations
- discussions
- vote

UNITED STATES SUPREME COURT

DECISION - 2011

Legislators do not have a personal, First Amendment right to vote on any given matter. (See endnote 11.)

But how can it be that restrictions upon legislators' voting are not restrictions upon legislators' protected speech?

The answer is that a legislator's vote is the commitment of his apportioned share of the legislature's power to the passage or defeat of a particular proposal.

The legislative power thus committed is not personal to the legislator but belongs to the people; the legislator has no personal right to it.

OBSERVATIONS

- No First Amendment impediment to a well drafted ethics law requiring recusal by Legislators
- Carrigan should have relied on the advice of the Ethics Commission rather than the advice of the City Attorney
- A local government exercises only the powers conferred by the State Legislature therefore, there is no Separation of Powers limitation on enforcement exists on the local municipal level

RULE OF NECESSITY

(See Endnote 12)

The participation of an independent, unbiased adjudicator in the resolution of disputes is an essential element of due process of law, guaranteed by the Federal and State Constitutions.

Judicial independence contributes not only to accurate determinations but also to the appearance of fairness, equality between the parties, and predictability and rationality of result.

The Rule of Necessity provides a narrow exception to this principle, requiring a biased adjudicator to decide a case if and only if the dispute cannot otherwise be heard.

Thus, where all members of the adjudicative body are disqualified and no other body exists to which the appeal might be referred for disposition, the Rule of Necessity ensures that neither the parties nor the Legislature will be left without the remedy provided by law.

Given the principle at stake, "necessity" must be construed strictly, in favor of delegating judicial authority to others whenever possible.

RECURRING ETHICS ISSUES

- DUAL OFFICE HOLDING

- Common Law Rule

- In the absence of a constitutional or statutory prohibition, an individual may hold two government positions provided the two positions are not inherently incompatible. (See endnote 13.)

- determine compatibility by comparing duties

- you cannot be your own boss

- » An obvious example of two offices with inconsistent duties is those of auditor, and director of finance.

- same standard for compatibility of outside employment

NOTE: MUNICIPALITY MAY USE HOME RULE POWERS TO SUPERCEDE STATUTORY PROHIBITION, PROVIDED NO COMMON LAW CONFLICT

EXAMPLES OF INCOMPATIBLE OFFICES

- Town board member and secretary to town ZBA (see endnote 14)
- Town ZBA clerk and assistant town building inspector (see endnote 15)
- County planning commission chair and ZBA member of a village within the same county (see endnote 16)
- Village trustee and member of the village housing authority (see endnote 17)

RECUSAL V. DISQUALIFICATION

Recusal is the appropriate remedy where a conflict arises for an official holding two *compatible* public offices. But where recusals are frequent and inevitable, as opposed to being possibilities; there is an inherent inconsistency in the positions. Where two offices are incompatible, recusal is not a sufficient remedy.

RECUSAL FROM AN OFFICIAL VOTE IS NOT A NEUTRAL ACT

NY General Construction Law §41 provides that a board or commission may not exercise its authority by less than a majority of the total number which the board or commission would have were there no vacancies and were none of the officials disqualified from acting. For example, in the absence of a statute or rule to the contrary, abstention from voting by a legislator must be counted as a vote in determining whether a majority of the legislature has approved or disapproved of proposed legislation.

The Problem of the Legislator and the “Appearance of Impropriety”
The disqualification of a legislator from voting raises unique and fundamental questions in a representative democracy (see endnote 3).

POST EMPLOYMENT RESTRICTIONS

(Look before you leave!)

- Typically regulated by local code of ethics
 - Temporary Ban (“revolving door”)
 - One or two year “cooling off period”
 - “Appearance” broadly defined
 - Permanent Ban
 - Particular matters handled while serving as officer or employee
 - (Exception: performed only ministerial acts while government worker)

WAIVERS

(e.g. THE INDISPENSABLE RETIREE)

- Board of Ethics may be given power to grant waivers
- Suppose the municipality wishes to enter into a contract with a former employee who has special expertise needed in a matter that he worked on while he was employed by the county.

May the county enter into a contract with the former employee to take advantage his expertise?

No Article 18 problem.

But, it would violate the local Code's "Post-Employment Permanent Ban", if any.

This situation illustrates why we should empower the Board of Ethics to grant waivers.

NOTE: NY Pub Off Law applicable to NYS employees makes an exception for transfers of employment from government to government.

NEPOTISM

- Post feminism work place: two career households
- Article 18 does not prohibit nepotism
- Local Code should regulate, but not prohibit two-official households
- Harm lies in the abuse of office that arises when a public official hires, retains, or promotes family members or supervises them or is supervised by them
- Status of Domestic Partners

DISCLOSURE

- Transactional Disclosure
- Applicant Disclosure
- Annual Financial Disclosure
 - Required in municipalities with populations of 50,000 or more

PURPOSES OF ANNUAL FINANCIAL DISCLOSURE

- Annual disclosure serves three purposes:
 - a check on transactional disclosure
 - an annual reminder to officials of where their potential conflicts of interest lie
 - a means of preventing potential conflicts from becoming actual conflicts
- **DISCLOSURE SHOULD BE REQUIRED ONLY IF THE INFORMATION RELATES TO AN OBLIGATION UNDER THE ETHICS CODE.**

WHO IS REQUIRED TO FILE?

Two categories of municipal officers and employees are required to file annual financial disclosure statements:

- those holding titles listed in the statute
- those who meet the broad definition of “policymaker” (including members of boards and commissions, whether paid or unpaid).

The first group must file absolutely. Members of the second group may apply to the Board of Ethics for an exemption from filing.

Open question: effect of collective bargaining agreement

WHO IS REQUIRED TO FILE?: POLICY MAKER GUIDELINES

The Temporary State Commission on Local Government Ethics adopted guidelines for determining which officials in a municipality hold policy-making positions.

For the purposes of the Financial Disclosure Law, a person holds a policymaking position if he or she exercises responsibilities of a broad scope in the **formulation** of plans for the **implementation** of goals or policy for a local agency or acts as an **advisor** to an individual in such a position.

In reviewing the list of policy makers, the Board applies these guidelines to the powers and duties of the **position** as set forth in the job description or any applicable law or regulation as well as the **actual** duties performed by the person.

ETHICS BOARD: STRUCTURE, PURPOSE, PROCEDURE

- FUNCTIONS

- Advisory opinions and waivers
- Repository for transactional disclosures and notices of recusal
- Investigations and enforcement; subpoena power
- Administration of financial disclosure law
- Review of disclosure statements
- Ethics training
- Recommend changes to ethics code
- Adopt rules and procedures

MEMBERSHIP

- For credibility: bi-partisan membership
- For independence: fixed, staggered terms; budget, subpoena power
- Members should serve without compensation

MEETINGS, DELIBERATIONS AND DETERMINATIONS

- Who may request an advisory opinion?
- What is the effect of an Advisory Opinion?
 - Are Advisory Opinions subject to judicial review?
- Tips for drafting Advisory Opinions

MEETINGS, DELIBERATIONS AND DETERMINATIONS

- Who may file a complaint?
- Investigation and hearing of complaints: Due Process; Substantial Evidence

MEETINGS, DELIBERATIONS AND DETERMINATIONS

- Application of FOIL: exceptions
- Application of Open Meetings Law: executive session
- Subpoenas for production of Board of Ethics records

ENFORCEMENT

- Should apply not only to municipal officers and employees, but also to private individuals and companies
- Penalties imposed by Ethics Board may include (where authorized):
 - civil fines
 - voiding of contract
 - private censure
 - restitution
 - disgorgement of profits
 - employee discipline (subject to collective bargaining agreement)
 - criminal prosecution
 - debarment from further business with the municipality
 - injunction

AT WHAT STAGE SHOULD AN ETHICS COMPLAINT BE PUBLIC?

- Confidentiality at the preliminary stage of an ethics investigation serves to protect the privacy and reputation of a presumptively innocent City officer or employee who is the subject of an ethics complaint that has not yet resulted, and may never result, in the filing of formal charges
- It encourages the reporting of suspected ethical violations by protecting the identity of whistleblowers in the preliminary stages of an investigation
- It avoids subornation of perjury, witness tampering and spoliation of evidence
- It fosters freedom of deliberation among members of the Board of Ethics without fear that the Board's preliminary view of a matter will be made public before formal charges are filed and before a due process hearing is conducted.

ENFORCEMENT

Refer suspected criminal matters to D.A.; defer action to avoid interfering with prosecution or depriving suspects of due process rights

ENFORCEMENT

Loophole: “Albany Ethics Case That Died Points to Loophole, Not a Crime”, The New York Times, 2/25/05, p.A1 [President of SUNY/Albany resigned to avoid a State ethics inquiry into charges that she offered to steer a campus construction contract to a developer in exchange for endowment of a university professorship that she would fill when she left her job as university president.]

BOARD OF ETHICS: AUTHORITY DERIVED FROM NEW YORK GENERAL MUNICIPAL LAW

- Local municipality may establish local board of ethics
- May appropriate money for maintenance and services
- Members appointed by governing body
 - Members serve at pleasure of governing body
 - Ethics Board must have at least three members
 - Majority of members may not be municipal officers or employees
 - At least one member must be municipal officer or employee
 - Ethics Board renders advice to municipal officers and employees
 - Requests for advisory opinions must be made in writing
- Ethics Board may employ own counsel, or municipal attorney

APPLICATION OF MUNICIPAL HOME RULE LAW

- Confers limited authority to supersede state statutes
- Must comply with Home Rule procedures

STAFF/BUDGET

- Board should have independent counsel
- Clerk/Secretary should be appointed to assist Board
- For independence: modest budget for independent counsel, title searches, court reporter fees, etc.

GOVERNMENT ETHICS RESOURCES

- Opinions of the NYS Attorney General are available on-line through a link on the Attorney General's website: <http://www.oag.state.ny.us/>
- Opinions of the NYS Comptroller are available on-line through a link on the Comptroller's website: <http://www.osc.state.ny.us>
- Many useful ethics publications are posted on the website of the New York City Conflicts of Interest Board (NYC COIB):
<http://www.nyc.gov/html/conflicts/html/home/home.shtml>
- Many useful ethics publications are posted on the website of the New York State Bar Association Municipal Law Section, including an archive of articles from the *Municipal Lawyer*. <http://www.nysba.org>
- The Conference On Government Ethics Laws (COGEL) is a national membership organization of government agencies, organizations, and individuals with responsibilities or interests in governmental ethics, elections, campaign finance, lobby laws and freedom of information. Publications, contacts, and other resources are available to members through the COGEL website: <http://www.cogel.org/>

ENDNOTES

1. Federal Office of Government Ethics Informal Advisory Letter 87x13, cited with approval by the New York State Ethics Commission in Advisory Opinion No. 94-16 (interpreting gift regulations imposed on State employees by Public Officers Law).
2. 1993 Op. Atty. Gen. 6; 1990 Op. Atty. Gen. 38.
3. Peterson v. Corbin, 275 A.D.2d 35 (2d Dept. 2000), *app. dism.* 95 N.Y.2d 919 (2000); Friedhaber v. Town Bd. of Town of Sheldon, 16 Misc.3d 1140A (App. Term. 1st Dept. 2007), *aff'd* 59 A.D.3d 1006 (4th Dept. 2009).

ENDNOTES

4. North Hempstead v. North Hills, 38 N.Y.2d 334 (1975); Tuxedo Conservation & Taxpayers Assn. v. Town Bd., 69 A.D.2d 320 (2d Dept. 1979); Segalla v. Planning Bd., 204 A.D.2d 334 (2d Dept. 1992).

5. Tuxedo, supra; Zagoreos v. Conklin, 109 A.D.2d 281 (2d Dept. 1985); Ahearn v. Zoning Bd. of Appeals, 158 A.D.2d 801 (3d Dept. 1990), *lv. den.* 76 N.Y.2d 706 (1990); DePaolo v. Town of Ithaca, 258 A.D.2d 68 (3d Dept. 1999); Heustis v. Town of Ticonderoga Planning Bd., 11 A.D.3d 868 (3d Dept. 2004); Matter of Schupak v. Zoning Bd. of Appeals of Marbletown, 31 A.D.3d 1018 (3d Dept. 2006), *app. den.* 8 N.Y.3d 842 (2007); 1990 Op. Atty. Gen. 38; 1991 Op. St. Comp. 48.

ENDNOTES

6. Segalla, supra; Ahearn, supra; Parker v. Gardiner Planning Bd., 184 A.D.2d 937 (3d Dept. 1992), *lv. den.* 80 N.Y.2d 76 (1992); Byer v. Town of Poestenkill, 232 A.D.2d 851 (3d Dept. 1997); 2002 Op. Atty. Gen. 9; 1997 Op. St. Comp. 9; 1990 Op. Atty. Gen. 38.
7. Matter of Tulip Gardens, Inc. v. Zoning Bd. of Appeals, 2009 N.Y. Misc. LEXIS 6437 (Sup. Ct. Nassau Co. 2009); 1988 Op. Atty. Gen. 59; 1988 Op. Atty. Gen. 60.
8. Webster Assoc. v. Town of Webster, 59 N.Y.2d 220 (1983); Schweichler v. Village of Caledonia, 45 A.D.3d 1281 (4th Dept. 2007); 1993 Op. Atty. Gen. 6; 1988 Op. Gen. 60.
9. 2000 Op. Atty. Gen. 22.

ENDNOTES

10. Lucas v. Board of Appeals of the Village of Mamaroneck, 14 Misc. 3d 1214A (Sup. Ct. Westchester Co. 2007), *aff'd* 57 A.D.3d 784 (2d Dept. 2008); 1991 Op. Atty. Gen. 48; 1989 Op. Atty. Gen. 50.
11. Nevada Commission on Ethics v. Carrigan, 564 U.S. _____ (2011); 131 S. Ct. 2343 (2011); 180 L. Ed. 2d 150 (2011).
12. Matter of General Motors Corp.-Delco Products Div. v. Rose, 82 N.Y.2d 183 (1988); cf. Vesely v. Town of New Windsor, 90 A.D.2d 770 (2d Dept. 1982).
13. Ryan v. Green, 58 N.Y. 295 (1874).
14. 990 Op. Atty. Gen. (inf.) 1099.

ENDNOTES

- 15. 1964 Op. Atty. Gen. (inf.) Jan. 23.
- 16. Op. Atty. Gen. (inf.) 83-36.
- 17. 1976 Op. Atty. Gen. (inf.) 198.