

Advisory Committee on the Code of Judicial Conduct

March 4, 1999

Hon. Frank H. Allen, Jr., Chairman
Hon. Theresa M. Baca
Hon. Thomas A. Donnelly

Judge

Re: Judicial Advisory Opinion 99-02

Dear Judge

You have asked this committee for an advisory opinion as to whether it would be proper under the Code of Judicial Conduct for you to serve as a board member for a newly formed organization called _____. You indicate that this organization was developed to provide neighborhood associations with mentorship, advice and assistance on how to resolve problems in their respective neighborhoods and/or how to obtain additional services. Your specific duty as a board member would be to provide advice and education on how the communities could work better with our court system.

A review of the literature you furnished with your letter states that _____ is sponsored by the _____ which is "a non-profit statewide advocacy organization serving as a voice for children, youth and families and those who love them".

The _____ a publication by _____ which you furnished, lists as its achievements the funding of programs concerning community patrolling, landlord training, and enforcement of nuisance abatement laws. The organization is also involved in DWI legislation, compliance checks on outlets selling tobacco to youth, and the shutdown of drug houses.

Canon 21-500 Provides in part:

21-500: A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

A. Extra-judicial activities in general. A judge shall conduct all of judge's Extra-judicial activities so that they do not:

(1) Cast doubt on the judges capacity to act impartially as a judge;

.....

C. Gover mental, civic or charitable activities;

.....

(3) A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal, or civic organization not conducted for profit, subject to the following limitations and other requirements of the Code:

(a) a judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization:

(i) will be engaged in proceedings that would ordinarily come before the judge; or

(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member .

From our review of the information to us by you, it appears more likely than not that _____ or its parent association, _____ has the potential of coming before the _____ Court on a frequent basis or that members of these organizations or persons who have been given advice by these entities would. Alternatively, it appears that such organizations may appear in the _____ Court. Concerns of these associations involving landlord-tenant matters, or liquor, drug, and tobacco usage or control may also be matters which would come before your Court. These factors, we conclude, give rise to a likelihood of a possible violation of Canon 21-500. Additionally, it appears that in your roles as a board member you will be called upon to give advice. A judge is restricted in giving advice to potential litigants, and giving advise concerning these or similar matters may cast doubt on the judge's impartiality.

It is therefore the opinion of the committee that a judge being a Board Member of _____
_____ would be in conflict with his/her judicial duties as provided in Canon 21-500 (A) (1) (C) (a) (i)
(ii).

Very truly yours,

Frank H. Allen, Jr., Chairman
Judicial Advisory Committee

enclosed copies to opinion 97-01 & 96-06
concerning Canon 21-500