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ADVISORY OPINION NUMBER 79-2

Public Officials doing Business with the
Connecticut Housing Authority

A firm involved in construction and development has applied to the Connecticut Housing Finance Authority for mortgage financing of a multi-family residential housing project. A member-elect of the General Assembly who is a partner in the firm has asked the State Ethics Commission whether his status as a public official affects the ability of his firm to do business with the Authority in view of the conflict-of-interest provisions of the Code of Ethics for Public Officials, Public Act Number 77-600.

A member-elect of the General Assembly is a public official, as is a member. Section 1(j), Public Act Number 77-600. A firm in which a public official is a partner is a "business with which he is associated". Section 1(a), *id.* A review of sections 6 through 8 of Public Act Number 77-600 indicates violation of any provisions possibly applicable, when a business with which a public official is associated obtains a mortgage loan from the Connecticut Housing Finance Authority, can be avoided, with the possible exception of a violation of section 6(i). That section, in part and with exceptions not pertinent, prohibits a business with which a public official is associated from entering into a contract, valued at more than one hundred dollars, "with the state... unless the contract has been awarded through an open and public offer and subsequent public disclosure of all proposals considered and the contract awarded." Should the public official's firm be successful in obtaining a mortgage loan from the Authority, the firm would have to sign several contracts, one or more of which would be with the Authority.

There is a question whether a contract with the Authority is a contract with the "state". The Connecticut Housing Finance Authority has been established as a body politic and corporate which is a public instrumentality and political subdivision of the State, performing an essential public function. Section 8-244, Connecticut General Statutes. Four of the ten members of the Authority hold their position by virtue of their State office: the Commissioner of Community Affairs, the Secretary of the Office of Policy and Management, the Banking Commissioner, and the State Treasurer. *Ibid.* Periodically the Authority must report on its activities to the Governor and the General Assembly. Section 8-260, *id.* The Connecticut Register and Manual 1978, on pages 184 and 209, places the Authority among State boards and commissions.

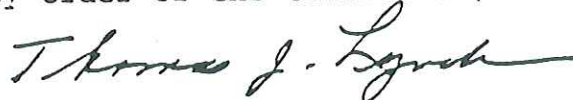
Although established by a State statute, and managed in part by high State officials, the Authority receives no appropriations from the State General Fund. It finances its operations from selling its own tax-exempt bonds. The Authority's bonds do not constitute a debt or liability of the State or a pledge of its full faith and credit or taxing power. Section 8-252(g), *id.* As previously noted, it has been established as a political subdivision of the State.

From the foregoing, and other provisions of Chapter 134, Connecticut General Statutes, it is apparent that the General Assembly has created, in the Authority, a mixed body. It appears to be essentially identical in character to the Connecticut Resources Recovery Authority, which for some purposes has been found to be "a body independent of the body politic known as the State of Connecticut". Opinion of the Attorney General to the Chairman, State Insurance Purchasing Board, September 25, 1974. If that be true, a contract with the Housing Authority might not be a contract with the "state", as that phrase is used in section 6(i), Public Act Number 77-600.

It is not essential, however, that the character of the Authority be conclusively established. Even contracts with the State by public officials are permitted if the requirements of section 6(i), above, are met. The Authority has guidelines, standards, and procedures to guide prospective applicants for financing of multi-family housing projects. Proposals from sponsors are accepted and evaluated in accordance with the guidelines, standards, and procedures. They are approved or disapproved by the Authority's members at an open, public meeting. The Authority appears to be, and considers itself to be, a public agency under the Freedom of Information Act, section 1-18a(a), Connecticut General Statutes. Therefore, its records are generally available to the public, subject to the usual exemptions in section 1-19, Connecticut General Statutes.

It seems, then, that the process which leads a developer to enter into a contract with the Connecticut Housing Finance Authority is open and public, meeting the criteria set forth in section 6(i), Public Act Number 77-600. As a consequence, so long as a public official avoids violation of other provisions in Public Act Number 77-600, the Act does not prevent his applying for and, if successful, receiving mortgage financing of a multi-family residential housing project from the Authority. Cf. State Ethics Commission Advisory Opinion Number 78-19, 40 Conn. L.J. No. 10, p. 14.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated

January 4, 1979

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