



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-2 (AMENDED)

Restrictions On Employees Of The Department Of  
Public Works Imposed By Conn. Gen. Stat. §4b-4

In Ethics Commission Advisory Opinion No. 90-2, the Commission advised Ms. Susan Amenta Hooper, the Property Management Supervisor in the Leasing Section of the Department of Public Works, that under Connecticut General Statutes §4b-4 she could not continue to occupy her state position as long as she and her spouse were also owners and directors of The Hooper Company, a business which manages and leases shopping centers.

In pertinent part, §4b-4 states that, "(a)...nor shall...any nonclerical employee in the unit of the department of public works which is responsible for acquiring, leasing, and selling real property on behalf of the state...be directly or indirectly involved in any enterprise concerned with real estate acquisition or development...." Under subsection (b) of §4b-4, the Ethics Commission is given the authority to enforce the provisions of the section. Therefore, the Commission has the inherent authority to interpret this statute.

In Advisory Opinion No. 90-2, the Commission specifically held that, "Although The Hooper Company does not own any real estate at the present time, it is involved in the management and leasing of shopping centers and, therefore, is involved in real estate development." Ethics Commission Advisory Opinion No. 90-2, 51 Conn. L.J. No. 32, p. 2C (February 6, 1990).

Ms. Hooper requested reconsideration of Advisory Opinion No. 90-2, claiming, in essence, that the term "development" as used in §4b-4 does not encompass leasing and management of property. Upon reconsideration, the Commission has concluded that there is sufficient ambiguity in the use of the term to warrant reversal of the original holding in this matter. The Commission believes that in enacting §4b-4 the General Assembly intended to prevent nonclerical employees of the State's Leasing Unit from also being directly or indirectly involved in private leasing ventures. The Commission finds, however, that the language used in the section, "real estate acquisition or development", is

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not precise enough to accomplish this intent. In the absence of unambiguous statutory language, the Commission declines to apply the severe requirements of §4b-4 to Mr. and Ms. Hooper's situation.

If, in fact, the General Assembly intended to ban the direct or indirect involvement of state leasing personnel in enterprises concerned with leasing the Commission calls upon the Legislature to amend §4b-4 to unequivocally articulate this prohibition.

By order of the Commission,

*Rabbi Michael Menitoff*

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Rabbi Michael Menitoff  
Chairperson

Dated 7 - 9 - 90