



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 81-1

Involvement of a General Assembly Member with
Housing Purchase and Rehabilitation Fund Mortgages

A member-elect of the General Assembly who is an attorney has the Connecticut Housing Investment Fund, Inc. (the Corporation) as a client. A State program, funded by the State's Housing Purchase and Rehabilitation Fund, is administered in part by the Corporation. The attorney has asked whether, in view of his election to the General Assembly, it is proper for him to continue to represent the Corporation in transactions involving assets of the Housing Purchase and Rehabilitation Fund.

The Corporation describes itself in its 1979 Annual Report as "a statewide non-profit housing agency dedicated to promoting the economic and racial diversity of Connecticut's towns and rehabilitating and stabilizing deteriorating urban neighborhoods through homeownership." Because of the Corporation's experience and capability in second mortgage programs, the State has entered into agreements with it for the Corporation to help administer the Housing Purchase and Rehabilitation Fund and to counsel applicants for participation in the Fund program.

The Housing Purchase and Rehabilitation Fund has been established under Chapter 136, General Statutes, for the assistance of low and moderate income families and individuals lacking sufficient financial resources to make down payments or regular mortgage payments on private housing or to purchase and rehabilitate housing if it is deteriorated. Sections 8-283, 8-285, General Statutes; section 8-203-4(t), Regulations of Connecticut State Agencies. It is funded by the proceeds of the sale of State bonds. Section 8-288, id. Loans from the Fund are made at favorable interest rates; they are secured by a second mortgage on the dwelling purchased by the recipient of the loan. Section 8-287, id. The Corporation's responsibilities under its contract with the State related to the Fund include counseling applicants for second mortgages from the Fund, determining their eligibility for a loan from the Fund and whether the dwelling meets the criteria for the loan, and servicing the mortgage loan.

The legislator-elect in question is one of the attorneys designated by the Attorney General to represent the Corporation and, through it, the State in closings which involve second mortgages securing loans provided by the Housing Purchase and Development Fund. The State

has no written contract or other agreement with such attorneys. Only attorneys certified by the Attorney General because of their familiarity with the procedures incident to the preparation and review of documents involving assets of the State's Housing Purchase and Rehabilitation Fund, however, may represent the Corporation in its role as an agent of the State when a closing involves a second mortgage in which Fund money is lent. Attorneys on the list of those certified by the Attorney General are selected by the Corporation for closings on a rotating basis. Fees for the legal services provided by the attorney are paid by the mortgagor. The attorney at the closing may also represent the institution lending money secured by a first mortgage and, in addition, may represent the buyer.

A member-elect of the General Assembly is a public official subject to the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes. Subsection 1-79(j), General Statutes. There appears to be nothing in the Code to prevent the attorney from continuing to participate in closings in which a loan from the Fund is involved.

The Ethics Commission has on several occasions examined the question of whether a public official or State employee may, without violating the Code of Ethics for Public Officials, engage in other employment for the State or in some way involving the State. Most recently, it decided that a member-elect of the General Assembly could continue to completion some collection cases involving defaulting borrowers from the Connecticut Student Loan Foundation. Advisory Opinion No. 80-21, 42 Conn. L.J. No. 26, p. 23. The situation of the attorney representing the interests of the Connecticut Housing Investment Fund when it is acting as an agent for the State seems analagous. There appear to be no inherent conflicts of interests. It is unlikely that the attorney's private employment could influence his judgment as a legislator, or cause him to use or disclose confidential information gained in his public office. In Advisory Opinion No. 80-21 the member-elect/attorney volunteered to accept no more cases. In that case and this one, there should be no problem if the attorney continues to provide services at no significantly greater a level than before his election.

He is certified for his private employment by the Attorney General. He is involved with a loan fund created by the General Assembly, which determines the amount of money available to the Fund and the policies under which loans from the Fund will be granted. If these facts create potential conflicts of interest, section 1-86, General Statutes, provides a means for avoiding any conflict.

It is assumed that at closings the member-elect, insofar as he has any discretion, zealously guards the interests of the State Fund. If this were not so, there might be a question of his using the influence of his State office incident to favoring his other clients.

in the closing who might have interests adverse to the State. So long as his primary concern is protecting the State there would appear to be no problem in the public official abiding by the Code administered by the State Ethics Commission.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated January 16, 1981

