



SHELTER ISLAND BOARD OF ETHICS

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Board of Ethics Opinion

22 November 2023

Re: Geraghty / Opinion 6-2023

Question Presented:

Should an advisory council member have recused himself from voting on a dock proposal because he owns a small parcel (share of an undevelopable beach) one-third of a mile away? And should he recuse himself from participating in part of an island-wide dock code rewrite or dock moratorium?

Facts:

Four weeks after a vote by the town's Waterways Management Advisory Council (WMAC) on a dock proposal at 78 Peconic Ave., Al Loreto, a member of the WMAC who favored the dock, told Bill Geraghty, a member who opposed it, that he felt Mr. Geraghty should have recused himself from the vote because he owns property nearby. The dock was opposed by the WMAC on a 4-1 vote, with Mr. Loreto abstaining and later writing the Town Board to favor it; the Town Board approved the dock.

Mr. Loreto also said Mr. Geraghty should recuse himself from future deliberations on a dock moratorium or other code changes affecting Silver Beach, writing us: "Since he owns property and has a direct financial interest on this shoreline, I suggested that he recuse himself from writing or proposing changes along that shore."

Mr. Geraghty's property at 56E Peconic Ave. is a 25-foot-wide sliver of beachfront, among similar contiguous parcels, about one-third of a mile away from 78 Peconic Ave. It is undevelopable and currently assessed at \$21,000.

In emails, both Mr. Geraghty and Mr. Loreto asked for a Board of Ethics opinion. Mr. Geraghty shared the board's pending review with other WMAC members. One of them, Matthew Williamson, also commented in an email to the board in support of Mr. Geraghty. The board met Nov. 20, interviewed Mr. Geraghty and Mr. Loreto, and deliberated.

Relevant laws:

Shelter Island Town Code Chapter 8, entitled "Ethics, Code of"

§ 8-2 Definitions includes the following:

FINANCIAL BENEFIT- *Anything of value, whether in the form of money, property, services, loan, travel, entertainment, hospitality, or promise, or any other form. The benefit can be direct or*

indirect but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the Town or an area of the Town, or a lawful class of such residents or taxpayers.

§ 8-6. Recusal and abstention. *No officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including proposed legislation, when they know or have reason to know that the action could confer a financial benefit on the employee, a relative, or any private organization in which the employee is deemed to have an interest. Further, once recused, that person may not be in the room (or appear via videoconferencing) when the matter is being discussed, voted on, nor participate in any discussions or communications including e-mail or text regarding it.*

Analysis:

There is no evidence Mr. Geraghty would have any financial benefit from Town action for or against the dock at 78 Peconic Ave. or from an island-wide rewrite of the dock code. It could alternately be argued both that his sliver of land would benefit financially from more docks or that it would be harmed by them, thus the financial impact is highly speculative as well as *de minimis*.

This is not to exclude the possibility of substantial personal financial conflicts of interest in future work by WMAC members on the dock code. Such possibility should be considered if it arises with a careful review of facts, good faith, and disclosure and possibly recusal if appropriate. The broader context should bear in mind that WMAC work on a dock code is merely advisory to the Town Board, and that most WMAC members have some personal and/or financial relationship to the shoreline – which helps to qualify them to give advice mindful of the public interest.

Conclusion:

Our unanimous conclusion is that Mr. Geraghty did not need to recuse himself on the one dock application at issue, nor does he need to cease work on the dock code revision or moratorium proposal. Both he and Mr. Loreto are encouraged to keep speaking up on waterway issues on our small island.

Please be so advised,

Shelter Island Board of Ethics



Duff Wilson (Chairperson)

Laura Cunningham

Deborah Grayson

Shelby Mundy

Robert Raiber

cc: Stephen Kiely, Al Loreto, Town Board