

DIGEST OF ETHICS ADVISORY PANEL
OPINION #90-11, REQUEST #83
Issued January 18, 1990

An attorney seeks Panel advice as to whether it is permissible for him to bring a case before a certain town Zoning Board of Review under the circumstances he outlines.

The attorney advises the Panel that he is employed on an hourly basis by an autonomous quasi-municipal corporation which has authority to oversee water use within the town, "Town T," where it is situated. He states that this corporation, which we shall refer to as the Water District, has authority to levy taxes and assess fees against users of water within the town, but is not associated with Town T in any way. He stresses that he is paid for his services to the Water District as consulting attorney only and does not receive any fringe benefits or other indices of employee status.

The attorney states that he maintains an office as a sole practitioner in another city, and that occasionally he presents cases before Town T's Zoning Board of Review. He advises the Panel that one of the members of Town T's Zoning Board of Review, Mr. A, is also a commissioner on the Water District. He asks the Panel whether it is permissible for him to present a case before Town T's Zoning Board of Review when Mr. A is seated thereon as a member.

Rule 1.7, entitled "Conflict of Interest: General Rule," provides in pertinent part:

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests unless:

- (1) the lawyer reasonably believes the representation will not be adversely affected; and
- (2) the client consents after consultation. * * *

In the situation the attorney has described, no inconsistencies arise among the attorney's obligations to his clients before the Zoning Board of Review, his obligations to the Water District and his own interests. The Panel therefore takes the position that Rule 1.7 does not apply to the circumstance the attorney has described and that he may properly represent clients before the Zoning Board.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.