

DIGEST OF ETHICS ADVISORY PANEL
OPINION #90-28, REQUEST #106
Issued June 25, 1990

An attorney seeks Panel advice as to whether he may properly represent certain clients under the circumstances he describes.

The attorney advises the Panel that he is the Probate Judge of Town T, and is appointed to that position by the Town Council. The Probate Judgeship is a part-time position; the attorney asks the Panel whether, in his capacity as attorney at law he may represent clients before the Planning Board and the Zoning Board of Town T.

Rule 1.7, titled "Conflict of Interest: General Rule" provides,

(b) A lawyer shall not represent a client if the representation of that client may be materially limited . . . 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

Representing clients before the Planning Board or the Zoning Board does not involve any conflict between the interests of the attorney's client and those of the attorney's appointing authority. Nor would such representation involve a conflict between the interests of the attorney's client and the attorney's position in the Probate Court. The Panel therefore takes the position that Rule 1.7 is not applicable and that the attorney may properly represent clients before either the Planning Board or the Zoning Board of Town T.

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.