

FINAL

ETHICS ADVISORY PANEL
OPINION # 96-20, - REQUEST # 666
Issued - August 8, 1996

FACTS:

The inquiring attorney asks whether he/she may represent a long-standing client before the municipal zoning board and planning board of Town A regarding special use permits and variances. The inquiring attorney previously prepared wills and documents for the Mayor of Town A and his family. The Mayor appoints the planning board members; the town council appoints the members of the zoning board.

ISSUES PRESENTED:

Can the inquiring attorney represent the client before Town A's planning and zoning boards under these circumstances?

OPINION:

Yes, as set forth below.

REASONING:

The issue presented is whether the inquiring attorney is prohibited from representing the client under Rule 1.9 "Conflict of Interest: Former Client." That Rule states:

A lawyer who has formerly represented a client in a matter shall not thereafter:

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or

(b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client or when the information has become generally known.

FINAL

EAP Opinion # 96-20, - Rqst. # 666

August 8, 1996

Page 2

The inquiring attorney may represent the current client before the municipal zoning and planning boards because the matters are not the same or substantially related to matters handled for the former client, the Mayor. Additionally, the inquiring attorney may not use information relating to the representation of the former client to that client's disadvantage.

The Panel's guidance is restricted to interpretations of the Rules of Professional Conduct and does not extend to issues under the State Ethics Code or any other rules, regulations or laws that may have a bearing on the issues raised by this inquiry.