

Final

**RHODE ISLAND SUPREME COURT  
ETHICS ADVISORY PANEL  
Opinion No. 99-14, Request No. 779  
Issued June 10, 1999**

Facts:

The inquiring attorney's law firm represented the buyers in the purchase of a parcel of real estate, Parcel A. The description of Parcel A contains a right-of-way across another parcel of real estate, Parcel B. About ten years ago, the inquiring attorney drafted a deed on behalf of the previous owners (grantors) of Parcel B in which the grantors conveyed Parcel B to their child (grantee). One of these grantors, and the grantee's spouse who now has an interest in Parcel B, have requested that the law firm represent them in a dispute regarding the applicability of the right-of-way to the buyers of Parcel A.

Issue Presented:

The inquiring attorney asks whether his/her law firm may represent any of the interested parties in this dispute.

Opinion:

Pursuant to Rule 1.9 and Rule 1.10, absent consent the law firm may represent neither the buyers of Parcel A nor the individuals who have requested representation in the dispute of the right-of-way.

Reasoning:

The buyers of Parcel A are former clients of the law firm, and one of the individuals who has requested representation is a former client of the inquiring attorney. Therefore Rule 1.9 applies. The rule states:

**Rule 1.9. Conflict of Interest: Former Client.** - 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

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3.3 would permit or require with respect to a client or when the information has become generally known.

Also applicable to this inquiry is Rule 1.10 which states in pertinent part:

**Rule 1.10. Imputed Disqualification: General Rule.** - (a)  
While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), 1.9 or 2.2.

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(d) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in Rule 1.7.

The individuals who have requested representation have interests in Parcel B which are materially adverse to the interests of the law firm's former clients, the buyers of Parcel A. In addition, the matters are substantially related. The right-of-way relates to Parcel B as well as to Parcel A which was the subject of the law firm's prior representation of the buyers of Parcel A. The Panel concludes that pursuant to Rule 1.9, the law firm may not represent the individuals who are requesting representation in a dispute against the buyers of Parcel A absent the consent of the buyers of Parcel A. The panel further concludes that pursuant to both Rule 1.9 and Rule 1.10, the law firm may not represent the buyers of Parcel A in this dispute absent the consent of the grantor of Parcel B, because the disputed right-of-way is substantially related to Parcel B, the conveyance of which was the subject of the inquiring attorney's prior representation of the grantor of Parcel B.