

Final

Rhode Island Supreme Court Ethics Advisory Panel
Opinion No 2002-06 Request No. 853
Issued September 12, 2002

Facts:

The inquiring attorney represents clients before the planning and zoning boards of a town and the town council. He/she is considering running for election to the position of town moderator. The function of the town moderator is limited to presiding over regular and special financial town meetings. The inquiring attorney seeks advice about whether he/she can continue to represent clients before the town's planning and zoning boards and the town council if he/she is elected town moderator.

Issue Presented:

Do the Rules of Professional Conduct prohibit the inquiring attorney from representing clients before the town council and before the town's planning and zoning boards if he/she is also town moderator?

Opinion:

The Rules of Professional Conduct do not prohibit the inquiring attorney from representing clients before the town council, or before the planning and zoning boards if he/she is elected town moderator.

Reasoning:

The inquiring attorney submitted a copy of provisions of the town charter which define the responsibilities of the town moderator. The charter provides in pertinent part as follows:

The Moderator shall preside at all regular and special Financial Town Meetings and . . . shall have the power to regulate and manage the business of each meeting, and to maintain peace and good order during the meeting. The Moderator . . . shall prescribe the rules governing the conduct of any regular or special Financial Town Meeting and publish them fifteen (15) days prior to the meeting. . . . He or she shall arrange the order of business at regular meetings so that the consideration of the budget and capital expenditure items shall be the last item of business. . . . The Moderator shall immediately prior to each regular or special Financial Town Meeting provide a written agenda for all interested

electors of those items of business to be considered at the meeting and the order in which they will be considered. . . .

In accordance with Robert's Rules of Order, the Moderator on a motion duly made and seconded relative to any business properly before the meeting and having heard all qualified electors desirous of being heard, shall cause the votes of the qualified electors present to be taken.

It appears to the Panel that the duties of the town moderator are ministerial. In the abstract these duties do not appear to present a material limitation to the inquiring attorney's representation of clients before the town council, or before the planning and zoning boards. See Rule 1.7(b) (lawyer shall not represent a client if the representation may be materially limited by lawyer's responsibilities to another client or to a third person, or by lawyer's own interest.) Other provisions of the Rules do not prohibit the attorney-town moderator from representing clients before the town council, or before the planning and zoning boards. The Panel therefore concludes that the inquiring attorney may so represent clients if he is elected town moderator.

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 bearing on the issues raised by this inquiry.