

Final

Rhode Island Supreme Court
Ethics Advisory Panel Opinion 2003-03 Request No. 863
Issued June 19, 2003

Facts:

The inquiring attorney is a part-time municipal court judge and also a partner in a law firm. The municipality where he/she is a judge recently underwent a property revaluation. The inquiring attorney has received inquiries from taxpayers concerning whether his/her law firm will represent them in connection with contesting their property revaluations. The inquiring attorney also intends to contest his/her property revaluation.

The inquiring attorney describes the procedure for contesting a property revaluation in the municipality as follows: A property owner first seeks an informal meeting with the revaluation company in an effort to lower the valuation. If unsuccessful, the property owner then may appeal to the tax assessor, and then to the tax assessment board of review. If unsuccessful at each of those levels, a property owner may file a lawsuit in the Superior Court to contest the valuation. The municipal court has no role in this process.

Issues Presented:

The inquiring attorney asks whether there is a conflict of interest under the Rules of Professional Conduct (a) if the inquiring attorney contests his/her property revaluation, and (b) if the inquiring attorney's law firm represents property owners, including the inquiring attorneys, in connection with contesting the revaluation of property located in the municipality where the inquiring attorney is the municipal court judge.

Opinion:

(a) The Rules of Professional Conduct do not prohibit the inquiring attorney from contesting the property revaluation of his/her property in the municipality where he/she is the municipal court judge. (b) The inquiring attorney's law firm may represent property owners, including the inquiring attorney, in the appeals of the revaluation of their properties located in the municipality where the inquiring attorney is the municipal court judge so long as, in compliance with Rule 1.7(b), the lawyers reasonably believe that the representation will not be adversely affected, and the clients consent after full disclosure.

Reasoning:

The Panel sees nothing in the Rules of Professional Conduct or the Code of Judicial Conduct which would prohibit the inquiring attorney from contesting his/her own property revaluation in the municipality where he/she is the municipal court judge.

Whether the inquiring attorney's law firm is permitted to represent property owners in connection with contesting their property revaluations is governed by 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, 1.9 or 2.2.

* * *

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

Under Rule 1.10(a), if the inquiring attorney is disqualified, the disqualification is imputed to other lawyers in his/her law firm. In Ethics Advisory Panel Opinion 1999-03, the Panel stated that a part time probate judge was permitted to represent clients before the municipality's zoning boards as long as, in accordance with Rule 1.7(b), he/she reasonably believes that his/her responsibilities to the municipality will not adversely affect the representation, and the clients consent after full disclosure. Rule 1.7(b) provides:

(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 instant inquiry, the appeal process is before the municipality's tax assessor and tax assessment review board. The municipal court has no jurisdiction over property revaluation appeals. The Panel is of the opinion that the inquiring attorney would be permitted to represent property owners in the appeals of their property revaluations,

subject to Rule 1.7(b). Accordingly, the inquiring attorney's law firm may represent property owners, including the inquiring attorney, in the appeals of the revaluation of

their properties located in the municipality where the inquiring attorney is the municipal court judge so long as, in compliance with Rule 1.7(b), the lawyers reasonably believe that the representation will not be adversely affected, and the clients consent after full disclosure.

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

