

Final

**Rhode Island Supreme Court Ethics Advisory Panel**  
**Opinion No. 2005-09 Request No. 903**  
**Issued November 10, 2005**

Facts:

The inquiring attorney intends to run for city council. He/she is in private law practice and regularly appears before the city's planning board and zoning boards. The planning board does not need confirmation by the city council, but the zoning board does. If elected, the inquiring attorney will recuse from voting to confirm members of the zoning board.

Issue Presented:

The inquiring attorney asks whether he/she may represent clients before the planning and zoning boards in the city if he/she is elected to the city council.

Opinion:

If elected to the city council, the inquiring attorney is not per se prohibited from representing clients before the city's planning and zoning boards. Pursuant to Rule 1.7(b), the inquiring attorney may represent clients before the boards provided in each case that he/she reasonably believes that the representations will not be adversely affected, and the clients consent.

Reasoning:

Rule 1.7(b) applies to this inquiry. It states:

(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. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

A lawyer who is also a member of the city council is not per se prohibited from representing clients before the city's planning and zoning boards. However, the Panel believes there are many possible situations which would give rise to violations of the Rules of Professional Conduct. Whether a representation would constitute a conflict of interest under the Rules will depend on the facts of each case, and on a determination of whether the lawyer's ability to represent a client would be materially limited by the lawyer's responsibilities owed to others, including the lawyer's constituents.

The Panel concludes that the inquiring attorney must determine in each case if the representation is materially limited. If so, the inquiring attorney may represent clients before the planning and zoning boards provided he/she reasonably believes that the representations will not be adversely affected, and provided further that the clients consent after consultation.

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.