



# Palm Beach County Commission on Ethics

## **Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## **Executive Director**

Alan S. Johnson

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October 8, 2010

Sharon Rodgers  
Palm Beach County Division of Senior Services  
Datura Senior Services  
801 Datura Street  
West Palm Beach, FL 33401

Re: RQO 10-026  
REAP Grant

Dear Ms. Rodgers,

YOU ASKED in your e-mail of September 27, 2010, whether you, as a county employee with the Division of Senior Services, may complete the landlord section of an application for the Resident Education Action Program (REAP) as an unpaid property manager for your family's rental property. Additional information was provided by e-mail on September 29<sup>th</sup> & 30<sup>th</sup>, 2010.

IN SUM, so long as you receive no compensation for being property manager and do not use your official position to "take or fail to take any action, or influence others to take or fail to take any action" that will result in a financial benefit to you or your sister or other relative as described in sec. 2-443(a)(2), there is no code of ethics prohibition in assisting your sister as property manager and processing the required landlord section of the REAP application.

THE FACTS as we understand them are as follows:

You are a county employee with the Division of Senior Services. During off duty hours you manage rental property owned by your family and titled in your sister's name. You receive no compensation for your work as property manager. A prospective tenant has obtained an assistance grant from the county administered Resident Education to Action Program (REAP). REAP is a state funded rental assistance program awarded to Palm Beach County Housing and Community Development (HCD) and is administered and operated by the Palm Beach County Division of Human Services. Applicants eligible for this grant may receive up to \$5,000.00 in assistance to cover costs of first and/or last month's rent, security deposits and utility deposits and connection fees. Grant monies are paid directly to the landlord or utility company, and REAP is a one-time rather than an ongoing assistance program. You do not work directly for the Department of Human Services (DHS) which oversees the grant, however, the Division of Senior Services and the DHS are both within the Department of Community Services (DCS).

You stated that the REAP program is not connected with the Division of Senior Services and that you have no authority over any aspect of the REAP program. In addition, you have no relationship with the prospective tenant and receive no compensation from your family. Compensation from the REAP grant would be forwarded directly to your sister as the landlord.

THE LEGAL BASIS for this opinion is found in the plain language of the following code of ethics sections:

Sec. 2-443(a) prohibits you from using your official position to obtain a financial benefit for yourself, your family members, including your sister, or an outside business, customer or client. An outside business includes any



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entity, other than government, from which you receive compensation. You have indicated that you are not being compensated for your work as property manager. However, any benefit derived by your sister may violate this section if you use your official position on her behalf or on behalf of other family members.

Sec. 2-443(c) prohibits a county employee from entering into any contract or other transaction for goods or services with the county. This prohibition extends to the employee's outside employer or business. Again, since you receive no compensation from your family, this section would ordinarily not apply. However, if you personally become a party to the contract by signing the application for the REAP compensation, this may constitute a prohibited contractual relationship, even if you are not receiving any proceeds from the transaction. If you are merely filling out the relevant portions of the landlord section for your sister and your sister is the signor of the agreement, then this section would not apply.

You mentioned in your e-mail of September 27, 2010 that "at this point, I have received no compensation in my capacity as property manager." Be advised that if you at any time begin to receive compensation, including money or anything else of value, for your work as property manager, the prohibitions of sec. 2-443(c) become active. At that point, your property manager position would involve an "outside employer or business" and the renter may become a "customer or client" of your employer or business if the rental amount exceeds \$10,000.00 during a 24 month period.

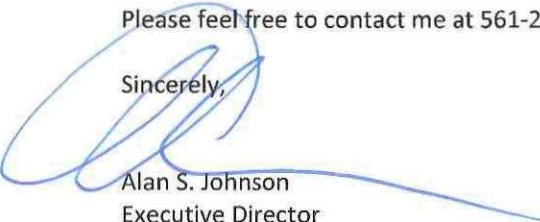
Should your relationship transform into an outside employment or business, the contractual relationship with the county under the REAP program would be prohibited under sec. 2-443(c). In addition, you would not be able to obtain a waiver of the prohibition under the waiver provisions of sec. 2-443(d)(5) if you work in the county department which will "enforce, oversee or administer the subject contract." Both your department and DSS are within the Department of Community Services.

IN SUM, so long as you are not being compensated, do not yourself enter into any contracts with the county on behalf of your sister/family and do not use your official position to benefit your sister/family, you are not prohibited from assisting them in managing their property. In order to ensure that there is no appearance that you are using your official position to benefit your sister/family, there should be no authority or connection whatsoever between your position and any aspect of the REAP program. The obligations of the code of ethics are ongoing. If there is likelihood that you will one day be compensated for your work as property manager, depending on the status of your sister's REAP contracts with the county, you may at that time be violating the prohibited contracts section of the code.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,



Alan S. Johnson  
Executive Director