

Part 2 – Inquiries Received by Attorney or Clerk and Advice Given to Officials

July 18, 2019 – Advice to Official Conducting Business with Borough – KGBC 2.20.040(d)

An Assembly Member inquired of the Attorney whether she could, in her capacity as a business consultant, represent a contractor who was currently delinquent in sales tax reporting and payment, and has a dispute with the Finance Department relative to the application of the single unit sale definition in Borough code. Her consultant services would put her in direct contact with Finance staff in a representative capacity. The Attorney advised that pursuant to KGBC 2.20.040(d), her representation of the contractor, for compensation, would be a direct violation of Borough Code in that “No official shall represent, for compensation, or assist those representing private business interests before the borough assembly, administration, or any borough board, commission or agency.”

August 2, 2019 – Advice to Official for Upcoming Need for Disclosure – KGBC 2.20.090

The Clerk provided notice to an official of an upcoming agenda item amending the Borough budget for property and liability insurance. One of the insurance line items included in the appropriation was the Local Education Fund. The Clerk advised of the need for the official to make a financial disclosure prior to the public hearing, and request a ruling from the chair. The Mayor was copied on the email so that he was also prepared for the disclosure and questions he may want to ask to make a ruling.

August 7, 2019 – Advice to Former Official for Lobbying Purposes

A former Assembly Member who maintained his seat on the Southeast Conference board of directors after his departure from the Assembly, requested the Assembly to cover the costs of his attendance at the Southeast Conference annual conference. In his request, he mentioned that he would be “advocating for issues on behalf of the Borough.” An agenda item was drafted - at the request of the Mayor – for the Assembly to consider the reimbursement. The Borough Attorney voiced concern that by “advocating for issues on behalf of the Borough,” it could create the need for the citizen to register as a lobbyist, and the Borough would then be obliged to report his engagement as a lobbyist. See AS 24.45.161 and 24.45.171(11)(A). In order to alleviate the concern, the Attorney recommended that that the language in the agenda item be altered to make clear that: (1) the citizen continues to occupy the Southeast Conference board seat ordinarily reserved for a municipal official based on his experience and interest in municipal issues; and (2) that he is attending Southeast Conference to monitor and provide insight into meeting topics bearing on municipalities. The language in the agenda item was provided in reliance upon and recognition that there has never been any official action by the Assembly authorizing the citizen to represent the Borough or advocate on behalf of the Borough.