

City of Wilmington



MICHAEL S. PURZYCKI  
Mayor

**PUBLIC VERSION**<sup>1</sup>

**VIA E-MAIL**

[   ]  
800 North French Street  
Wilmington, DE 19801

RE: City of Wilmington Ethics Commission Advisory Opinion- A.O. 2019-01

Dear [                                 ]:

The City of Wilmington Ethics Commission met in Executive Session on November 12, 2019 to consider your request for an Advisory Opinion regarding your proposed purchase of a property from the Wilmington Neighborhood Conservancy Land Bank Corporation (“Land Bank”). A quorum was present and voted unanimously during the meeting’s public session in support of this advisory opinion. This opinion is confidential and may be made public at your request. Pursuant to W.C.C. § 2-342(e), a public version of this opinion will be posted on the Commission’s website, but redactions will be made using best efforts to not disclosure your identity.

As discussed below, we opine based on the information made available to us that the proposed transaction between you and the Land Bank does not violate the City’s Code of Conduct or the City Charter. It is not a contract with the City. The Commission also takes this opportunity to remind you and educate the public (through the public version of this opinion), that the City Code requires City Officials to enter into these types of personal transactions on equal footing with any other person who may seek such a transaction. Please note that this opinion is limited to the specific facts of the case as provided below.

**Facts**

The Ethics Commission gathered the following facts from communications with you and publically available information. You want to purchase a property from the Land Bank as part of

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<sup>1</sup> Brackets note redacted text. This public version of the opinion is issued pursuant to W.C.C. § 2-342(e).

its Wilmington Homestead Homebuyer Program. Through this program, the Land Bank offers certain properties for sale to people, who meet a certain criteria. That includes a commitment to renovate the property and use it for personal use for at least five years.<sup>2</sup>

The Land Bank is a tax-exempt corporation incorporated in the State of Delaware.<sup>3</sup> It is not a component of the City of Wilmington Government. The Delaware Neighborhood Conservation and Land Banking Act is the enabling legislation for the Land Bank.<sup>4</sup> Based on that, the City authorized the establishment of the Land Bank within the City's boundaries in 2015.<sup>5</sup> The next year, the City authorized a memorandum of understanding ("MOU") with the Land Bank defining the relationship between the two entities.<sup>6</sup> You assumed your position in [ ] after City Council passed the legislation granting the City authority to enter into a MOU with the Land Bank.

### **Relevant City Code Provisions**

Sec. 2-340(c)(1): No elected official, appointed official or city employee shall benefit from or be interested in any contract with the city, nor solicit any contract and shall not enter into any contract with the city (other than an employment contract).

Sec. 2-340(f)(3): No elected official, appointed official or city employee shall utilize the influence of his or her office or position for personal pecuniary gain, or to unduly influence the behavior of others, or to avoid the legal consequences of his or her personal conduct.

Sec. 2-341(e): No city employee, elected official, appointed official or honorary official shall use his or her public office to secure unwarranted privileges, private advancement or gain.

Sec. 2-341(a) Each city employee, city officer and honorary city official shall endeavor to pursue a course of conduct which will not raise any justifiable suspicion among the public that he is engaging in acts which are in violation of his public trust and which course of conduct will not reflect unfavorably upon the city and its government.

Sec. 2-342(c) Upon the written request of any city employee, city officer, honorary city official or city agency, the commission may issue an advisory opinion as to the applicability of this division to any particular fact situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to

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<sup>2</sup> See <https://www.wilmingtonlandbank.org/> ("Homepage"). Information about this program is available for the public at the Land Bank's webpage and according to the webpage the Land Bank has held multiple information sessions on this program.

<sup>3</sup> <https://icis.corp.delaware.gov/Ecorp/EntitySearch/NameSearch.aspx> (search: Wilmington Neighborhood Conservancy Land Bank Corporation).

<sup>4</sup> 31 *Del C.* §4701 *et seq.*

<sup>5</sup> Substitute No. 1 to Ordinance No. 15-040.

<sup>6</sup> Ordinance No. 16-059.

the matters covered by the advisory opinion provided there was a full disclosure to the ethics commission of all material facts necessary for the advisory opinion.

**Findings**

Your proposed transaction with the Land Bank is not in violation of the City Code or Charter as long as you pursue it on equal footing with other members of the public. The proposed transaction, or contract, is with the Land Bank, which is a separately incorporated entity from the City of Wilmington. Further, you assumed your position after the State and then the City passed the legislation required to permit the Land Bank's formation and the legislation that governs the relationship between the City and the Land Bank.

The Commission takes this opportunity to remind you and the public that City employees including elected and appointed officials may not use their position to secure unwarranted privileges. There is no indication of such happening here. Indeed, it appears the Land Bank advertises its Wilmington Homestead Homebuyer Program to the public and the Land Bank is working to get this information out to the public through a series of information sessions. You may apply for the program like any other member of the public.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "W.D. Johnston". The signature is fluid and cursive, with a large loop at the end.

William D. Johnston, Esquire  
Chair of City of Wilmington  
Ethics Commission

cc: Robert Goff, City Solicitor (via e-mail)  
William B. Larson, Jr, Ethics Commission Counsel (via e-mail)