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ETHICS ADVISORY OPINION NO. 26-006-E

April 10, 2026

Question Presented: May current and former public servants of the city purchase real property from an LLC which is located within the city's urban renewal district?

Brief Answer: Yes. While the city council and the city redevelopment authority both authorized the district and the redevelopment of it, neither will be authorizing the sale of individual parcels to future residents, and no violation of Section 109, Miss. Const. of 1890, or Section 25-4-105(2), Miss. Code of 1972, will occur if current or former members purchase property or act as real estate agent for a purchaser. Moreover, no violation of Section 25-4-105(3)(b) will occur if any current or former public servant of the city or their relative purchases real property within the district from the LLC or acts as the real estate agent for a purchaser.

The Mississippi Ethics Commission issued this opinion on the date shown above in accordance with Section 25-4-17(i), Mississippi Code of 1972, as reflected upon its minutes of even date. The Commission is empowered to interpret and opine only upon Article IV, Section 109, Mississippi Constitution of 1890, and Article 3, Chapter 4, Title 25, Mississippi Code of 1972. This opinion does not interpret or offer protection from liability for any other laws, rules or regulations. The Commission based this opinion solely on the facts and circumstances provided by the requestor as restated herein. The protection from liability provided under Section 25-4-17(i) is limited to the individual who requested this opinion and to the accuracy and completeness of these facts.

I. LAW

The pertinent Ethics in Government Laws to be considered here are as follows:

Section 109, Miss. Const. of 1890.

No public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city, or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member, during the term for which he shall have been chosen, or within one year after the expiration of such term.

Section 25-4-103, Miss. Code of 1972.

(a) “Authority” means any component unit of a governmental entity.

(f) “Contract” means:

(i) Any agreement to which the government is a party; or

(ii) Any agreement on behalf of the government which involves the payment of public funds.

(g) “Government” means the state and all political entities thereof, both collectively and separately, including but not limited to:

(i) Counties;

(ii) Municipalities;

(iii) All school districts;

(iv) All courts; and

(v) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, counties or municipalities created by statute, ordinance or executive order including all units that expend public funds.

(h) “Governmental entity” means the state, a county, a municipality or any other separate political subdivision authorized by law to exercise a part of the sovereign power of the state.

(n) “Property” means all real or personal property.

(o) “Public funds” means money belonging to the government.

(p) “Public servant” means:

(i) Any elected or appointed official of the government;

(ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity

created by or under the laws of the state of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or

(iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

(q) "Relative" means:

(i) The spouse of the public servant;

(ii) The child of the public servant;

(iii) The parent of the public servant;

(iv) The sibling of the public servant; and

(v) The spouse of any of the relatives of the public servant specified in subparagraphs (ii) through (iv).

Section 25-4-105, Miss. Code of 1972.

(2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.

(3) No public servant shall:

(b) Be a purchaser, direct or indirect, at any sale made by him in his official capacity or by the governmental entity of which he is an officer or employee, except in respect of the sale of goods or services when provided as public utilities or offered to the general public on a uniform price schedule.

II. FACTS

Facts provided by the requestor are set forth below, with identifying information redacted, and are considered a part of this opinion.

As you know, I am general counsel to the City of ... ("the City"). I am also general counsel to the [City] Redevelopment Authority ("CRA") which is an urban renewal agency created by the Mayor and City Council to perform the City's urban renewal functions. The CRA has been a very productive and impactful Board for the City. The Mayor and City Council of the City created CRA several years ago. One of its major projects has been the redevelopment of a five-block area comprising

approximately 17 acres of land lying near the County Courthouse and located adjacent to a soccer complex in the center of the City's central business district. The CRA nearly 10 years ago approached the Mayor and City Council and told them their plan to revitalize this five-block area, which had become blighted. Numerous houses in the area were run-down and were standing vacant. Other homes in the area in question were rentals and there was significant crime in the area. So, upon request of the CRA the Mayor and Council approved a resolution that created an urban renewal district. Thereafter the CRA asked the Mayor and City Council to enter into an agreement called a "contribution agreement" some of the terms of which would allow the CRA to issue urban renewal bonds with the City passing millage increases over a three-year period and then using the new tax revenue to retire the debt on the bonds. The Mayor and Council saw the value in the plan and approved the contribution agreement. CRA then issued bonds and spent the next several years acquiring each of the lots in the five block area. Some of the acquisitions were done through negotiations while a few were done through eminent domain. In any case, after the CRA finally acquired all of the parcels, totaling nearly 80, it put the project out for proposals for redevelopment. After advertising as required by law, the CRA entered into a purchase and sale agreement ("PSA") and a redevelopment agreement with a private buyer, [a certain limited liability company ("LLC").] CRA then gave notice to the Mayor and City Council of the City and asked for their approval of the pending sale and thereafter the Mayor and City Council joined in the PSA with LLC and CRA. CRA also lobbied for and received a state appropriation of funds totaling \$3M as well as a reimbursable federal grant of \$2.2M from HUD for the Site to be graded as well as other improvements to the site. CRA is about to award bids on site development and when that is finished, it intends to sell the land in the district to LLC for development into a mixed use, residential/commercial new development. LLC has started marketing lots and already has more than ten under option for sale.

As I said, the [the urban renewal district] site is really going to be transformational for [the city] and even [the] County. It has generated a lot of interest. Present and former council members may well be interested in personally investing or being involved in the project. Here are my questions in no particular order:

1. May a former board member of the CRA who now serves on the City Council of the City be allowed to purchase a lot in [the urban renewal district] from LLC to locate his/her business or to build a home or simply to develop it for sale?
2. May a present member of the City Council of the City, who is a real estate agent represent a buyer who wants to purchase a lot in [the district] from LLC?
3. May a former Mayor or former member of the City Council who was in office at any time during the CRA's efforts to purchase lots, issue bonds or other relevant time period be involved in purchase and/or sale of the land in [the district] from LLC?

4. May either the Mayor or a present member of the City Council purchase a lot in [the district] from LLC to develop it for resale to a third-party?
5. May the spouse of the present Mayor, who is a real estate agent, represent a buyer who wants to purchase a lot in [the district] from LLC?
6. May I as general counsel for both the City and CRA purchase a lot in [the district] from LLC to build a home?
7. May any member or former member of the CRA represent a buyer who wants to purchase a lot in [the district] from LLC?
8. May a municipal employee or former employee who never had involvement in the project as an employee of the City purchase a lot in [the district] from LLC?

Please convey my thanks to the members of the Ethics Commission and my apologies for the breadth of this request, but we feel this comprehensive list of questions might well be beneficial to both past and present members of the CRA board, the City Council and employees of the City.

III. ANALYSIS

Under Mississippi's Ethics in Government Law, members of public boards and commissions are held to a higher standard than other public servants and are subject to some additional restrictions. Therefore, members of the city council and city redevelopment authority, as well as the mayor, must be analyzed first and separately.

Section 109, Miss. Const. of 1890, and its statutory parallel, Section 25-4-105(2), Miss. Code of 1972, both quoted above, prohibit a member of a public board from having any direct or indirect interest in a contract with the government authorized by that board during his or her term or for one year thereafter. Frazier v. State, ex rel. Pittman, 504 So.2d 675, 693 (Miss. 1987). Anyone who purchases real property in the urban renewal district will have a contract with the seller, which at the outset, will be the LLC referenced above. That purchaser will obviously have a direct interest in that contract. However, while the city council and the city redevelopment authority have both authorized the district and the redevelopment of it, neither will be authorizing the sale of individual parcels to future residents. Therefore, current and former members of the city council and the city redevelopment authority and current or former mayors and their spouses may purchase real property from the LLC in the urban renewal district or serve as real estate agent for a purchaser without violating Section 109 or Section 25-4-105(2). See also Advisory Opinion No. 16-075-E.

All public servants, including the current council and authority members and mayor referenced above, as well as all current city employees, including the city/CRA attorney, are subject to Section 25-4-105(3)(b), which prohibits them from being "a purchaser, direct or indirect," from the city. Here, anyone who acquires real property in the district will purchase it from the LLC, not from the city. The LLC is not a straw man. Rather, it is a longstanding, legitimate and necessary link in the chain of urban renewal and redevelopment. While one could

argue that everyone who purchases property within the redevelopment district is an indirect purchaser from the city, such an interpretation would be overly broad and go well beyond the intent of the statute. Naturally, city officials and employees cannot be offered special discounts or other incentives for purchasing within the district, but as long as the property is offered to the general public on a uniform price schedule, no violation of Section 25-4-105(3)(b) will occur if any current or former public servant of the city or their relative purchases real property within the district or acts as the real estate agent for a purchaser. See also Advisory Opinion No. 16-075-E.

MISSISSIPPI ETHICS COMMISSION

BY: _____

Tom Hood, Executive Director and
Chief Counsel