



Mark R. Brengelman

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April 14, 2020



Louisville Metro Air Pollution Control District
The Edison Center
701 West Ormsby Avenue, Suite 303
Louisville, Kentucky 40203

*** by e-mail to SSullivan56@icloud.com ***

Re: Request for Advisory Opinion follow up regarding board recusal from the Air Pollution Control District Board

Dear

Your original Request for Advisory Opinion dated December 11, 2019, was taken up by the Louisville Metro Ethics Commission at its next regularly scheduled meeting on February 20, 2020, for its review and response. Because the Commission did not meet in December 2019 or January 2020, your request was first reviewed at the February 20, 2020, regularly-scheduled meeting. An opinion letter was issued on or about March 5, 2020.

You have requested an additional clarification stating in part:

I requested an Advisory Opinion . . . from the Ethics Commission regarding my ability to vote on Louisville Metro Air Pollution Control Board matters *as they relate to entities providing support to TreesLouisville.*

....

This letter is to advise that I do not foresee any matters involving TreesLouisville coming before the Board, and to affirm that I would recuse myself from voting on any matter directly involving TreesLouisville in the event one would.

....

There are many entities in the community that contribute, or may contribute to TreesLouisville, and it is possible that, at times, some of those same entities may have matters that come before the Board.

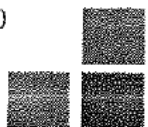
(emphasis added).

You further stated:

I interpret the Advisory Opinion to prohibit my voting *only on matters directly related to TreesLouisville*, and that *there is no particular issue with my voting on*

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matters that involve entities that may provide support to TreesLouisville, either through financial or in-kind donations.

(Emphasis added.)

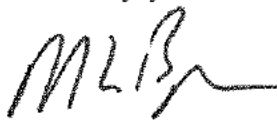
As stated in the prior Advisory Opinion, as a Metro Officer where your spouse is the Executive Director of a non-profit entity whose entity may have business before the Air Pollution Control District Board, you agreed you are prohibited from using or attempting to use your position as a voting Board member to secure unwarranted privileges or advantages for members of your family where the business of TreesLouisville is before your Board.

For other entities which come before your Board that do business with TreesLouisville, or may do business with TreesLouisville, or may affect the business of TreesLouisville, unless there is a direct connection between the action before your Air Pollution Control District Board and TreesLouisville, there is no need to recuse because there is no direct connection. When there is no direct connection, the Ethics Commission has no reason to believe your objectivity may be reasonably impaired.

Furthermore as stated in the Advisory Opinion, as a Metro Officer, your spouse has a financial interest in TreesLouisville such that, as a member of that spouse's immediate family, your actions as an Air Pollution Control District Board member "might reasonably be expected to impair [your] objectivity or independence of judgement." The Commission concludes that applies only to matters where TreesLouisville itself has something pending before the Commission. You are correct in concluding unless there is such a direct connection by another entities' matter to TreesLouisville, any cause and effect is speculative such that you need not recuse.

If you have any further questions or concerns, please contact the Ethics Commission. This correspondence has been sent on my law firm letterhead and not the Ethics Commission letterhead in order to expedite delivery.

Sincerely yours,



Mark R. Brengelman, Attorney at Law
Counsel, Metro Ethics Commission

c: Stacy Fritze Dott, Assistant Jefferson County Attorney
(by e-mail to Stacy.Dott@LouisvilleKy.gov)

Rachael Hamilton, Assistant Director, Louisville Metro Air Pollution Control District
(by e-mail to Rachael.Hamilton@LouisvilleKy.gov)