

OPINION OF THE CHARLES COUNTY ETHICS COMMISSION

On July 18, 2024, the Charles County Ethics Commission received a request for an ethics opinion from Ms. Dina Barclay, Director of the Charles County Department of Community Services. The request concerns whether a Charles County Employee, who has a rental property, would be allowed to rent that property, temporarily, to a person receiving rental assistance from the Charles County Department of Community Services. The request is as follows:

There is a low-income, elderly client (“the Client”) in Indian Head for whom our Department is trying to do a total home replacement. It has been an ongoing struggle to get this project to the finish line, but as we are so close to completion, the client is now at risk of having the entire project canceled by the state if she doesn’t find a temporary place to live (off her current property) so that the demolition can start & the re-construction can begin. Due to her inadequate income & a multitude of animals (some livestock, some domestic, but all “pets” to her), she is having a very difficult time finding a rental option.

Joe Benzing, one of the housing inspectors in our Department, has an apartment on his rural property that he could consider renting to her, and she could bring her animals as he has space for them. Joe’s function in the Housing Authority has nothing to do with the community development programs that are funding this home replacement project. To mitigate any conflicts of interest, Joe never rents any of his properties to persons on the Voucher program, to which his inspection work is isolated. This client is not on the voucher program, so that mitigation still holds.

However, he has apparently offered to assist this elderly client with a rental option, if it does not pose a conflict of interest for him or our Department.

Ms. Dina Barclay and Mr. Joe Benzing both submitted statements to the Ethics Commission in order to assist the Commission in reaching its opinion.

After review and discussion by the Commission, the Commission voted unanimously to adopt and issue the following decision:

FINDINGS OF FACT

The Commission finds that the following are the relevant facts of the case:

1. The Charles County Department of Community Services (the “Department”) is providing assistance to a Client who is in the process of receiving a total home replacement through a State grant.
2. The nature of the assistance that the Department is providing is administrative in nature: to wit: the Department, through its employee Ms. Barbara Farmer, assists Client in seeking a loan through a State funded program. The Client applies, with Departmental assistance to the State, the State makes an independent determination about the need and quantity of the repairs and necessary funds associated with it. The Department then

oversees the process of the repairs, or in this situation, total home replacement. The Department may provide a list of contractors to the Client, however, the Client selects the contractor and works with them on the development of plans. The Department is not a party to any contracts, however, the Department may review contracts to ensure compliance with and supervision over the administrative process. There are no Charles County funds spent in conjunction with the repair project.¹

3. The Client does not receive any Charles County funds for any type of housing assistance. Client does not participate in the Voucher program, which provides funding for low income residents for housing.
4. The Client needs to relocate her living quarters temporarily (approximately six months) while the total home replacement is being completed.
5. Due to financial limitations and the animals in her care, she has very specific property needs and combined with the short duration and need for a month to month lease, has been unable to find any reasonable temporary housing outcome.
6. If the Client does not vacate her property and allow for the repairs, the loan will expire, and the Client's home will not be repaired/replaced and will be a risk to her health and safety, and presumably uninhabitable.
7. Mr. Joseph Benzing is an employee of Charles County Government and is assigned to the Department as a housing inspector.
8. Mr. Benzing has a property that he could rent, that is capable of housing both the Client and her animals and is available on a month-to-month basis.
9. Mr. Benzing does not participate in any way with the assistance that the Department is providing, nor would he (or any other Charles County housing inspector) be inspecting the house, reviewing the plans, or influencing or supervising the administration of the State loan program.
10. Since the Client does not receive any rental assistance funding from the County, Mr. Benzing would not be receiving any Charles County taxpayer dollars for the rental of this property.

ANALYSIS

Charles County Government has adopted the Charles County Ethics Code, declaring its statement of purpose and policy in §170-2:

- A. The Board of County Commissioners of Charles County, Maryland, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

More specifically, section §170-5 enumerates prohibited conduct and interests as it relates to County employees. Specifically, County employees are prohibited in participating in the

¹ There is technically a cost to the County in as much as the County pays for the salary of the employee, Ms. Barbara Farmer, who oversees the administrative compliance with this program.

disposition of or decision-making process of *any matter* in which they or a qualified relative have a financial interest, business or private interest. *See*, Charles County Code, §170-5. The conflict-of-interest provisions do not prohibit an employee from contracting with the County.

Under the facts of this case, Mr. Benzing has the opportunity to assist a county resident in need. Mr. Benzing does not stand to benefit in any way from any County tax dollar. Moreover, Mr. Benzing has not and cannot impact, influence or otherwise participate in any decision-making process that would result in a contract being made between the Department's client and Mr. Benzing. Furthermore, the only service to the Client that the Department is providing is an administrative service – thus there is no financial relationship between the County and the Client that could even provide the appearance of a conflict of interest were the Client to contract with Mr. Benzing for temporary housing.

Accordingly, for the reasons stated above, the Charles County Ethics Commission finds that no conflict of interest exists under Charles County Code §170 that would prohibit Mr. Benzing from offer his property for rent to the Department's Client.

Shara Hendler

Shara Hendler (Jul 25, 2024 16:32 EDT)

Shara Hendler

Ethics Commission Chair