



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

July 7, 1997

Jim Ryan
ATTORNEY GENERAL

FILE NO. 97-013

COMPATIBILITY OF OFFICES:
City Plan Commissioner and Township Trustee

Honorable Timothy J. McCann
State's Attorney, Kendall County
109 West Ridge Street
Yorkville, Illinois 60560

Dear Mr. McCann:

I have your letter wherein you inquire whether one person may hold the offices of city plan commissioner and township trustee of the township within which the city is located simultaneously. For the reasons hereinafter stated, it is my opinion that the offices of city plan commissioner and township trustee are incompatible, and one person may not, therefore, hold both offices.

Offices are deemed to be incompatible where the constitution or a statute specifically prohibits the occupant of either one of the offices from holding the other, or where, because the duties of either office may conflict the holder of one cannot, in every instance, properly and faithfully perform all the duties of

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the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286; People ex rel. Fitzsimmons v. Swailes (1984), 101 Ill. 2d 458, 465.) There is no constitutional or statutory provision which prohibits one person from simultaneously serving as both a city plan commission member and a township trustee. Therefore, the question to be determined is whether the duties of the offices are such that the holder of one can, in every instance, fully and faithfully discharge the duties of the other.

The powers of the city plan commission are set out in section 11-12-5 of the Municipal Code (65 ILCS 5/11-12-5 (West 1996)), which provides in part:

"Every plan commission * * * has
the following powers * * *:

* * *

(1) To prepare and recommend to the corporate authorities a comprehensive plan for the present and future development or redevelopment of the municipality. * * * This plan may include reasonable requirements with reference to streets, alleys, public grounds, and other improvements herein-after specified. The plan * * * may be made applicable, by the terms thereof, to land situated within the corporate limits and contiguous territory not more than one and one-half miles beyond the corporate limits and not included in any municipality. Such plan may be implemented by ordinances (a) establishing reasonable standards of design for subdivisions and for resubdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements as herein defined; (b) establishing reasonable requirements

governing the location, width, course, and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment; and (c) may designate land suitable for annexation to the municipality and the recommended zoning classification for such land upon annexation.

(2) To recommend changes, from time to time, in the official comprehensive plan.

(3) To prepare and recommend to the corporate authorities, from time to time, plans for specific improvements in pursuance of the official comprehensive plan.

(4) To give aid to the municipal officials charged with the direction of projects for improvements embraced within the official plan, to further the making of these projects, and, generally, to promote the realization of the official comprehensive plan.

* * *

(6) To exercise such other powers germane to the powers granted by this article as may be conferred by the corporate authorities." (Emphasis added.)

A member of the plan commission is responsible for recommending to the corporate authorities of the city actions which are in the best interests of the city, including land use regulations applicable in unincorporated territory located within 1½ miles of the city limits. A plan commission member may also

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be involved in designating and recommending unincorporated territory for annexation, again based upon the best interests of the city. Even if the initial comprehensive plan has been completed, a member of the plan commission must ensure that the interests of the city are effectuated in carrying out the plan and in recommending changes in the plan.

Township trustees exercise a number of corporate powers on behalf of the township. (60 ILCS 1/85-10 et seq. (West 1996).) In carrying out his or her duties, a township trustee is obligated to act in the best interests of the township.

In my opinion, the duties of a member of a city plan commission and a township trustee of the township in which the city is located may conflict in a number of respects. The recommended annexation of territory by a city may be directly contrary to the interests of the township with respect to the maintenance of its tax base and its provision of services. Other recommendations of the city plan commission for the development of the city, particularly in territory outside the city limits, could work to either the detriment or advantage of the township. In these circumstances, the duties of the two offices may conflict, and a person who held both simultaneously would be placed in the untenable position of advancing the interests of one unit of government at the expense of the other.

Therefore, because one person cannot, in each and every instance, fully and faithfully fulfill all the duties of both a

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city plan commission member and a trustee of the township in which the city is located, it is my opinion that the two offices are incompatible.

Sincerely,

A handwritten signature in cursive script that reads "James E. Ryan". The signature is written in black ink and is positioned above the printed name and title.

JAMES E. RYAN
ATTORNEY GENERAL