

DeKalb County

Board of Ethics

c/o Clerk of the Governing Authority

Manuel J. Maloof Center

1300 Commerce Drive

Decatur, Georgia 30030

www.co.dekalb.ga.us/ethics/

November 12, 2003

DEKALB COUNTY BOARD OF ETHICS

ADVISORY OPINION NUMBER 6

(Request of DeKalb County Planning Commission Member Robert F. Dallas)

The DeKalb County Board of Ethics met on Wednesday, May 14, 2003, for its regularly scheduled meeting and at that time considered the request of Robert F. Dallas, member of the DeKalb County Planning Commission from District One, for an Advisory Opinion.

Mr. Dallas is a practicing employment law attorney, and in that capacity was contacted by a former employee of the DeKalb County Planning Department who was seeking representation on the appeal of that employee's termination from that department. Because of the very short time period permitted for the appeal (10 days), Mr. Dallas consented to this representation and filed the appeal with the Human Resources and Merit System Director. The appeal was denied, and Mr. Dallas is seeking an advisory opinion from the Board of Ethics as to whether he will be prohibited from further representing this terminated employee in any employment action that he might bring.

The provision of the DeKalb County Code of Ethics that is controlling of this issue is Section 22A(c)(4), which states in pertinent part that "*...no member of the governing authority shall:*

- (4) *Appear on his own personal behalf, or represent, advise, or appear on the personal behalf of, whether paid or unpaid, any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee of the state or of any county or municipality concerning any contract or transaction which is or may be the subject of an official act or action of DeKalb County, or otherwise use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or other persons."*

The term "*an official act or action of DeKalb County*" is specifically defined elsewhere in Section 22A(b)(9) as follows: "*Official act or action' means any legislative, administrative, appointive, or discretionary act of the Commission, the Chief Executive, or a commissioner.*"

The Board found that, as a member of the DeKalb County Planning Commission, Mr. Dallas was subject to the DeKalb County Code of Ethics. Upon review of the actions taken by Mr. Dallas, the Board has determined that his initial representation of the terminated employee did not concern any contract or transaction which was the subject of an official act or action of DeKalb County as defined in the Code of Ethics, and was therefore not a violation of the Code.

However, the Board also recognized that any further appeals or actions taken on behalf of this employee will likely require that a lawsuit be filed against DeKalb County, which will require an official act or action of DeKalb County in response.

The Board concluded that the further legal representation by Mr. Dallas of this employee with regard to his termination by the DeKalb County Planning Department would constitute an appearance on behalf of another before any court or before a legislative, administrative, or quasi-judicial board, agency, commission, or committee of the state or of any county or municipality concerning a contract which *may be* the subject of an official act or action of DeKalb County, and therefore a violation of Section 22A(c)(4) of the Code of Ethics.

Patricia M. Killingsworth, Chair
DeKalb County Board of Ethics

Attest:

Jane M. Norcross, Secretary
DeKalb County Board of Ethics