

KENTUCKY BAR ASSOCIATION

Ethics Opinion KBA E-80

Issued: January 1974

Question: May a city attorney accept employment to represent a landowner whose property is being taken through condemnation proceedings by the urban renewal commission of that city?

Answer: Yes.

References: KRS Chapter 99

OPINION

The Ethics Committee has received a request for advice from a city attorney as to whether he may ethically represent a landowner whose property is being taken through condemnation proceedings by the urban renewal commission of that city. He notes that the commission has its own private attorney, and that a substantial portion of the cost of contracts executed by the commission for renewal work is paid by the city. In some instances title to property taken by condemnation is conveyed to the city, while in other cases title is taken in the name of the commission and then reconveyed to local citizens for redevelopment.

For answer to this inquiry, resort must be had initially to the statutory authority for urban renewal activity. By KRS Chapter 99, the legislative council of a city is authorized to create an urban renewal agency. Once created, the agency is a separate corporation from the city, with a separate governing body, and is free to employ its own counsel. While the city may assist the agency in the performance of its duties, there is no indication that the city attorney would be called upon or even permitted to advise the agency in connection with such assistance. Especially is this so in the present inquiry, since we have noted that the agency in question has already obtained legal counsel of its own.

In such circumstances the Committee finds no ethical conflict which would prevent acceptance of the questioned employment. Only if the city attorney should undertake to counsel the agency would any impropriety exist. Then obviously, the interests of the two parties would be inconsistent.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides: "Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act on his part performed in compliance with an opinion furnished to him on his petition, provided his petition clearly, fairly, accurately and completely states his contemplated professional act."