Bias, and Conflicts of Interest, and Pre-Judgment

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Our speaker

• David Owens
  – University of North Carolina
    School of Government
And Your Co-Hosts

• Prof. Daniel R. Mandelker, FAICP
  – Washington University School of Law

• Dwight Merriam, FAICP
  – Robinson & Cole LLP
Bias, Conflict of Interest and Development Regulations

- Rezonings, text amendments
- Special and conditional use permits, variances
- Permits, notices of violation

City Council

Staff

Boards of Adjustment
Source of Rules

1. Constitutional due process limits
2. Common law
3. General statutory provisions
4. Zoning specific statutory provisions
5. Ordinance limitations
6. Rules of procedure and codes of conduct
7. Professional standards
Types of Decisions

- Legislative
- Quasi-Judicial
- Administrative
Different Types of Decisions, Different Rules for Conflicts

1. Legislative
   General rule – motives irrelevant absent constitutional violation

Conflicts an exception, particularly financial conflicts
Different Types of Decisions, Different Rules for Conflicts

2. Quasi-judicial
   Due process adds requirement of impartiality
Different Types of Decisions, Different Rules for Conflicts

3. Administrative/Ministerial
Given objective standards, less concern

Often have rules by statute, ordinance, or ROP prohibiting work inconsistent with duties
Types of Conflicts

TYPES OF CONFLICTS

FINANCIAL

RELATIONSHIP

BIAS
Types of Conflicts

1. Financial
   a. Pecuniary interest in outcome
      Direct/Indirect
      Substantial/incidental
Types of Conflicts

1. Financial
   b. Gifts and favors
Types of Conflicts

2. Relationship with a party
   a. Business
      Nature of relationship
      Particular considerations for attorneys
2. Relationship with a party
   b. Family
   Closeness of relationship
   Often depends on type of decision
Types of Conflicts

2. Relationship with a party
   c. Associational

   Nature of tie
   Close enough for reasonable person to question
   improper influence
Bias

When is impartiality required?
What constitutes impermissible bias?

Special considerations regarding political influence, campaign contributions
Employee

Improper use of position

Secondary employment

Dual representation
Actual vs. Apparent Conflict

Avoiding even the appearance of conflict

Importance of public confidence in integrity of decision
Remedies

1. Disclosure
2. Abstention
3. Recusal
4. Invalidation of action
5. Discipline for violator
Education

Sample board education module from UNC SOG


Free access, 9/11 to 9/30/17. Asks a few demographic questions, then module loads.
Questions and, we hope, some answers...