

GENERAL MUNICIPAL LAW § 806(1).

It is a conflict of interests for an assessor to represent in his or her private capacity a taxpayer in another town where that taxpayer also owns property within the assessor's jurisdiction.

February 3, 1995

James F. Collins, Esq.
County Attorney
County of Herkimer
P. O. Box 471
Herkimer, NY 13350

Informal Opinion
No. 95-7

Dear Mr. Collins:

You have transmitted to us an inquiry raised by the Herkimer County Director of Real Property Tax Services concerning the assessment of real property in the Towns of Webb and Ohio in the County of Herkimer. You have explained that the assessor of the Town of Webb works privately as an assessor of real property in the Town of Ohio. In the Town of Ohio, the assessor is representing a real property owner in a proceeding to challenge that property owner's assessment. The property owner also owns property in the Town of Webb. You question whether this creates a conflict of interests for the assessor of the Town of Webb.

Public officials must exercise their duties solely in the public interest and must avoid situations where the public trust would be violated. Even the appearance of impropriety must be avoided in order to maintain public confidence in government.

In our view, the circumstances described above create at least an appearance of impropriety. There would exist a reasonable question in the eyes of the public as to whether the assessor for the Town of Webb can impartially assess this particular piece of real property given his or her financial association with the owner in the Town of Ohio. If it is possible, the assessor should recuse him or herself from acting with respect to the individual's property in the Town of Webb or, if not possible, should not represent the individual in a private capacity in the Town of Ohio. See, 1988 Op Atty Gen (Inf) 98.

Further, we note that municipalities are required to have codes of ethics defining when private employment is in conflict with official duties. General Municipal Law § 806(1). We suggest that you review your code of ethics to determine whether there are any applicable standards.

We conclude that it is a conflict of interests for an assessor to represent in his or her private capacity a taxpayer in another town where that taxpayer also owns property within the assessor's jurisdiction.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE
Assistant Attorney General
in Charge of Opinions