

COUNTY LAW §§ 204, 205, 207; GENERAL MUNICIPAL LAW § 808.

A conflict of interests arises when a member of the County Board of Supervisors, acting in his private capacity, installs septic systems for private individuals and the systems are subject to review by county employees.

June 29, 1998

Robert E. Swinehart, Esq.
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County of Seneca
P. O. Box 299
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Informal Opinion
No. 98-30

Dear Mr. Swinehart:

You have asked whether there is a conflict of interests when a member of the County Board of Supervisors, acting in his private capacity, installs septic systems for private individuals. You note that county code enforcement and health department personnel review such installations.

In our view, this individual should not be performing installations that are reviewed by county personnel. On numerous occasions we have stated that public officials should avoid private employment that compromises their ability to make impartial judgments solely in the public interest. Even the appearance of impropriety should be avoided in order to maintain public confidence in government. Op Atty Gen (Inf) Nos. 97-35, 89-58. Here, the Supervisor is a member of the County Board of Supervisors, which is empowered to establish positions of employment within the County, fix the compensation of all employees and regulate other terms and conditions of employment. Op Atty Gen (Inf) No. 95-35; County Law §§ 204, 205, 207. The Supervisor's private employment could influence his judgment with regard to the terms and conditions of employment of individuals who, as part of their jobs, review his installations. The employees also may be reluctant to exercise independent judgment regarding installation work performed by a Supervisor who is empowered to regulate the terms and conditions of their employment.

We conclude that a conflict of interests arises when a county supervisor, acting in his private capacity, installs septic systems for private individuals and the systems are subject to review by county employees. We note that questions

about the propriety of private employment also may be presented to the County Board of Ethics for an advisory opinion. Under section 808 of the General Municipal Law, the governing body of any county may establish a board of ethics to render advisory opinions to officers and employees.

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,

SIOBHAN S. CRARY
Assistant Attorney General