

88 NY2d 56 [1996]). Therefore, that position would not fall within the restriction established by section 30(4). The Commissioner of Public Safety and the member of the Zoning Board of Appeals, however, are officials of the City of Utica and are subject to the restriction.

Under Public Housing Law § 30(4), a housing authority board may include at any one time only one employee or officer of the municipality. A person who serves in both capacities is deemed to be the municipality's representative on the board. The municipal officer or employee may serve on the authority's board during the term of his or her municipal employment. It appears that the Legislature intended that a municipality have only one official representative on the board of a housing authority. Therefore, because two officials of the City of Utica serve on the Utica Housing Authority, there is a violation of section 30(4) of the Public Housing Law.

Therefore, a member of the Board of Commissioners of the Utica Municipal Housing Authority has been serving in violation of State law. He has been serving as a de facto, rather than a lawfully appointed officer. See, 1962 Op Atty Gen (Inf) 126; 1986 Op Atty Gen (Inf) 96. We note, however, that under well-established law, the actions of a person who is serving under color of law as a de facto officer are valid and not subject to collateral attack. Id.

We conclude that section 30(4) of the Public Housing Law permits only one municipal official to be a member of that municipality's public housing authority.

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