



**Denver Board of Ethics**  
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August 20, 2021

Councilwoman Amanda Sawyer  
1437 Bannock Street, Room 451  
Denver, CO 80202  
[Amanda.Sawyer@denvergov.org](mailto:Amanda.Sawyer@denvergov.org)

Re: Case 21-31 – your request for advisory opinion

Dear Councilwoman Sawyer:

On August 11, 2021, after discussing the matter with you, the Denver Board of Ethics considered the request for an advisory opinion that you submitted on July 12, 2021.

The facts as the Board understands them are as follows. You serve as a City Councilmember for the City and County of Denver, representing District 5. In this role, you have broad responsibilities, including making laws, budgeting city funds, and investigating city agencies and employees. On August 30, 2021, a rezoning project that is in your District will be in front of City Council and Council will be asked to approve or deny the plan as proposed. The developer for this project is your neighbor, and members of your family regularly interact with, and have established relationships with, the developer's family. You have asked whether the Code of Ethics would require you to recuse from participating in the vote on this matter on August 30, 2021.

The Denver Code of Ethics regulates conflicts of interest in Section 2-61.

Sec. 2-61. Conflict of interest while employed.

The purpose of this section is to avoid influence on the official actions of city officers, employees or officials by their private or family interests,

(a) Except when advised by the city attorney that the rule of necessity applies, an officer, official, or employee shall not take direct official action on a matter before the city if he or she or a member of the immediate family, a business associate or an employer other than the city of the officer, official or employee has any substantial employment, contractual, or financial interest in that matter. A substantial interest shall be deemed to exist if:

(1) He or she or a member of the immediate family, a business associate or an employer

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Lori Weiser

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other than the city is the other party in the matter; . . .

(f) Officers, employees or officials who are prohibited from taking direct official action due to a substantial conflict of interest shall disclose such interest to his or her colleagues on a board or commission or to his or her supervisor or appointing authority, shall not act or vote thereon, shall refrain from attempting to influence the decisions of others in acting or voting on the matter and shall work with his or her supervisor or appointing authority to ensure that the matter is assigned to someone without conflicting interests.

(g) No officer, employee or official may have any other employment or position which is incompatible with his or her duties or that adversely affect the interests of the city.

The definition of "immediate family," as set forth in the Code of Ethics,<sup>1</sup> while broad, does not include a neighbor or even a friend. Given this definition, the Board of Ethics determined,<sup>2</sup> Given this information, the Board of Ethics determined that you would not be considered to have a substantial interest in the matter when it comes before City Council. Therefore, joining your colleagues in reviewing information, receiving testimony, deliberating, and ultimately voting on the matter would not constitute a violation of the Ethics Code.

You stated that you are also concerned that there may be an appearance of impropriety if you do decide to participate when the project is ripe for consideration.

The Code of Ethics, in Section 2-51, provides:

It is the intent of the city that its officers, officials, and employees adhere to high levels of ethical conduct, honesty, integrity and accountability, so that the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public. Officers, officials, and employees should comply with both the letter and spirit of this ethics code and strive to avoid situations that create impropriety or the appearance of impropriety.

The Board of Ethics notes the seriousness of this question understanding your duty and desire to represent your constituents, particularly when such a vote will have a direct impact on the residents of District 5. The Board applauds you for being conscientious about the appearance of impropriety. Still, the Board has consistently found that this Legislative Intent Section of the Code is aspirational and does not, standing alone, provide a cause of action.

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<sup>1</sup> From Section 2-52(c) of the Code of Ethics:

(c) *Immediate family* means husband, wife, son, daughter, mother, father, step-son, step-daughter, step-mother, step-father, father or mother-in-law, son or daughter in-law, brother or sister in-law, aunt, uncle, nephew, niece, grandmother, grandfather, grandchildren, brother, sister, domestic partner, any person with whom he or she is cohabiting and any person to whom he or she is engaged to be married. The term includes any minor children for whom the person or his or her domestic partner provides day-to-day care and financial support. A "domestic partner" is an unmarried adult, unrelated by blood, with whom an unmarried officer, official, or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

Ultimately, because this situation does not run afoul of the Code of Ethics, whether or not to recuse is an individual decision that you must make for yourself based on the circumstances. The Board advises that so long as you believe you can be fair and impartial in evaluating the project on its merits, and you can prevent the personal relationships from improperly influencing your decision, your participation in the vote concerning this issue will not violate the Denver Code of Ethics.

Ensuring an ethical environment is the bedrock of public service. Maintaining and protecting ethical practice is essential for public trust and confidence in public officials. The city can only benefit from elected officials looking inward and resolving whether their own relationships would make circumstances difficult to determine matters without bias. An examination of one's own conscience is exactly what the Board anticipates all elected officials would do, and the Board commends you for coming forward with this question and leading by example.

The Board further advises you that if you decide to recuse yourself from taking direct official action on the matter, you should abstain from participating in reviewing information, receiving testimony, deliberating, and ultimately voting on the project. You also should announce your recusal and leave the room at the time the item is before City Council, and best practice would dictate that you review the minutes of the meeting to ensure that your absence and recusal is formally documented.

Please understand that this advisory opinion from the Board of Ethics is based on the specific facts presented in your request, and to the extent that different facts and circumstances exist or arise, the Board's conclusions and opinion are subject to change. Accordingly, if the facts underlying your request for an advisory opinion differ from those set forth here, the Board asks you to return to the Board for additional advice and guidance. We welcome the opportunity to continue a dialogue with you regarding the issues outlined in your request for advisory opinion. In addition, if you have any future questions about the application of the Denver Code of Ethics, we ask you to contact the Board.

The Board thanks you for submitting this request for an advisory opinion, and thanks you for participating in the Board meeting on August 11, 2021.

For the Board of Ethics:



Joseph G. Michaels  
Chair