



Committee on Professional Ethics

Opinion #292 - 4/27/73 (13-73)

Topic: Attorney for town Zoning
Board of Appeals; Conflicts

Clarified by 484

Digest: Attorney for town Zoning
Board of Appeals should not
represent private client
in zone change before Town
Board

Code: Canon 9
EC 9-1; 9-2
DR 9-101(A)

QUESTION

May an attorney for the town Zoning Board of Appeals represent a private client in a request for zone change before the Town Board?

OPINION

Because the powers of the Appeals Board and the Town Board are in many instances concurrent, overlapping and intertwined it would be improper for the attorney for the Appeals Board to represent a client before the Town Board in a zoning matter. Cf. N.Y.State 252 (1972).

While the representation of a private client by an attorney for one public agency before another public agency in the same town may not be prohibited by law and may not be a conflict of interest, there is always danger that unfair influence or impropriety may be involved in or inferred from such representation. Thus it was held in N.Y.State 110 (1969) that a city councilman should not represent private owners in condemnation proceedings before an independent but related body such as an urban renewal agency.

In N.Y.State 111(1969), it was held that an attorney for an urban renewal agency whose services embraced only title matters and not price negotiations should not represent private clients in condemnation proceedings against the agency. It is the duty of an attorney in public employ to remain above suspicion even at personal financial sacrifice. ABA 30 (1931); ABA 34 (1931); ABA 77 (1932); see also, Canon 9; EC 9-1; EC 9-2; DR 9-101(A).
