

JANUARY 3, 1950.

HOUSING AUTHORITY OF THE CITY OF PERTH AMBOY,
Perth Amboy, New Jersey.

FORMAL OPINION—1950. No. 2.

GENTLEMEN:

This letter is being written pursuant to a recent request made by you for an opinion concerning the status of one of your Housing Commissioners, namely, Frank Van Syckle.

Mr. Van Syckle is a duly appointed and acting Commissioner of the Perth Amboy Housing Authority and is also the President of the Perth Amboy National Bank of Perth Amboy, New Jersey. This bank is the depository of Housing Authority Funds.

This matter involves two questions:

- (1) Whether Commissioner Van Syckle should be removed as a member of the Housing Authority because he is President of the bank which is used as depository by the Authority; and
- (2) Whether it is necessary to discontinue the use of this bank of which the Commissioner is an officer as a depository for Authority Funds.

The answers to these questions are contained in the Local Housing Authorities Law, R. S. 55:14A et seq. Section 6 of that act refers to the problem at hand. The applicable part of this section reads as follows:

R. S. 55:14A-6:-

“ . . . No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in the project nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any project included or planned to be included in a housing project he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner or employee shall not participate in any action by the authority affecting such property. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the appointing authority which made the original appointment, but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.”

The section of the statute above cited clearly states that if any commissioner of an authority owns or controls an interest direct or indirect in any project included or planned to be included in a housing project he shall immediately disclose same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to make such disclosure constitutes misconduct in office. Upon such disclosure such commissioner shall not participate in any act of the authority affecting such property.

It can be assumed that Mr. Van Syckle's position as President of the Perth Amboy National Bank was known by the commissioners who designated the bank as depository for authority funds and that his interest as such has therefore been disclosed. The record, therefore, indicates that there is no misconduct on the part of Mr. Van Syckle which would warrant his removal from office or which would require that proceedings for this purpose be instituted against him.

The answer to the first question above set forth, therefore, is that he should not be removed from office as commissioner.

The second question is whether the Authority should discontinue the bank as depository because of the fact that one of its commissioners is president.

In view of the fact that there has been a disclosure as to any interest Mr. Van Syckle may have in this matter either direct or indirect, there is no need of any such discontinuance. However, Mr. Van Syckle should not participate in any action by the Authority affecting the use of this bank as depository or in which both the bank and the Authority have an interest. As to any future matters concerning situations where both the bank and the Authority may have an interest, he should make a full disclosure of same to the Authority, which disclosure should be included in the minutes of the authority.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: CHESTER K. LIGHAM,
Deputy Attorney General.

JANUARY 5, 1950.

HON. ROBERT B. MEYNER,
Senator, Warren County,
Phillipsburg, New Jersey.

FORMAL OPINION—1950. No. 3.

DEAR SENATOR:

Reference is made to your letter of December fourteenth, written on behalf of the Democratic members of the 1950 Senate.

The real issue presented by your letter, as we understand it, is whether it is the intentment of Article IV, Section IV, paragraph 4, of the Constitution of 1947, that the demand of one-fifth of the members present that the yeas and nays be