

Conflicts of Interest

Acting as a public servant on an elected or appointed body requires loyalty to the public. Conflicts of interest arise when a public servant is in the position of deciding between public duty and private interests. The two most common conflict of interest situations are (1) when a member is in a position to gain financially from a decision being rendered, and (2) when the member is a relative of an interested party.

The most obvious example of a financial conflict is when a board member has an ownership interest in a property that is the subject of a requested action. But a review of court cases from around the country quickly reveals the range of possible conflict situations:

- The member is in a business relationship with the applicant.
- The member's business partner is in a business relationship with the applicant.
- The member is employed by a company that stands to gain from approval of the development proposal.
- The member owns a business that would directly compete with the applicant's business.

The tangle of familial relationships that can potentially give rise to conflict of interest questions is equally broad:

- The member's spouse is the realtor working with the applicant holding an option to purchase contingent upon rezoning.
- The member's elderly mother lives near the property proposed for a shopping mall.
- The member's elderly mother owns a small interest in the strip mall for which a special exception has been requested.
- The member's nephew is an attorney with the firm representing the applicant.

The Iowa Supreme Court has determined that business dealings and familial relationships—standing alone—are not disqualifying interests. Local governments would be seriously handicapped if any conceivable interest, no matter how remote and speculative, would require the disqualification of a zoning official. The court has stated that for a conflict of interest to exist:

- The board or commission member's interest in the matter must be different from that which he or she holds in common with members of the public.
- The interest must be "direct, definite, capable of demonstration, not remote, uncertain, contingent, unsubstantial or merely speculative."

If a conflict of interest does not exist, it is the board or commission member's duty to participate and vote, even if the situation might be uncomfortable because it involves a friend or associate.

