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STATE OF NEVADA

STANDING COMMITTEE ON JUDICIAL ETHICS

DATE ISSUED: October 8, 2012

ADVISORY OPINION: JE12-011

PROPRIETY OF A JUDGE SERVING AS
A MEMBER OF THE BOARD OF A
HOMEOWNERS' ASSOCIATION

Standing Committee On Judicial Ethics.
Accordingly, this opinion is limited by the
authority granted in Rule 5.

ISSUE

May a judge serve as a member of
the board of a homeowners' association?

Canon 3 of the NCJC states “[a]
judge shall conduct the judge’s personal and
extrajudicial activities to minimize the risk
of conflict with the obligations of judicial
office.” Subject to certain restrictions, a
judge may participate in activities sponsored
by or on behalf of charitable or civic
organizations that are not conducted for
profit. *See Nev. Code Jud. Conduct Rule*
3.1. Rule 3.1 recognizes that when
engaging in extrajudicial activities, a judge
shall not:

ANSWER

The Committee believes it is
permissible under the judicial canons for a
judge to serve on the board of a
homeowners' association provided it is not
likely the association will be engaged in
litigation that would ordinarily come before
his court and that he not act as the
association’s legal advisor.

- (A) Participate in activities that will
interfere with the proper
performance of the judge’s
judicial duties;
- (B) Participate in activities that will
lead to frequent disqualification
of the judge;
- (C) Participate in activities that
would appear to a reasonable
person to undermine the judge’s
independence, integrity, or
impartiality;
- (D) Engage in conduct that would
appear to a reasonable person to
be coercive, or
- (E) Make use of court premises,
staff, stationery, equipment, or
other resources except for
incidental use for activities that
concern the law, the legal
system, or the administration of

FACTS

A Justice of the Peace has inquired
whether it would be a violation of the
Nevada Code of Judicial Conduct (“NCJC”)
for a judge to serve as a member of the
board of a homeowners' association. Under
the hypothetical presented, the judge is
already a member of the homeowners'
association by virtue of owning a residential
property within the association.

DISCUSSION

The Committee is authorized to
render advisory opinions evaluating the
scope of the NCJC. *Rule 5 Governing the*



justice, or unless such additional use is permitted by law.

Judges are encouraged to engage in appropriate extrajudicial activities, as “participation in both law-related and other extrajudicial activities helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.” *See Nev. Code Jud. Conduct Rule 3.1, Comments [1] and [2]*. Such permitted participation specifically includes serving as an officer, director, trustee or non-legal advisor of a civic organization, unless it is likely that the organization “will be engaged in proceedings that would ordinarily come before the judge or will frequently be engaged in adversary proceedings in the court of which the judge is a member.” *See Nev. Code Jud. Conduct Rule 3.7(A)(6)*.

The Committee believes that service by a judge as a member of the board of a homeowners’ association is consistent with permitted extrajudicial activities encouraged under Rules 3.1 and 3.7, so long as it is not likely the association will be engaged in litigation that would ordinarily come before the judge and that he does not act as the association’s legal advisor. Such service does not create additional disqualification issues, as a judge is automatically a member of the association by virtue of owning a home within its boundaries, and would be disqualified from adjudicating matters involving the HOA even if no other position was held. Finally, the Committee notes that several other jurisdictions have addressed similar questions under the model code of judicial conduct, and have concluded that it is permissible for a judge to serve as a member of a homeowners’ association unless it is likely that the association will be engaged in litigation that would ordinarily come before his court. *See Florida Judicial Ethics Advisory Committee Op. 04-10*;

Virginia Judicial Ethics Advisory Committee Op. 00-9; Texas Ethics Commission Op. 279; Arizona Judicial Ethics Advisory Committee Op. 95-01.

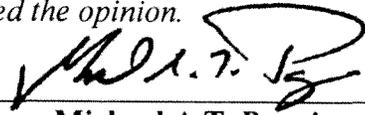
CONCLUSION

The Committee believes it is permissible under the judicial canons for a judge to serve on the board of a homeowners’ association provided it is not likely the association will be engaged in litigation that would ordinarily come before his court and that he not act as the association’s legal advisor.

REFERENCES

Nev. Code Jud. Conduct, Canon 3; Rule 3.1; Commentary [1] and [2] to Rule 3.1; Rule 5 Governing the Standing Committee On Judicial Ethics. See Florida Judicial Ethics Advisory Committee Op. 04-10; Virginia Judicial Ethics Advisory Committee Op. 00-9; Texas Ethics Commission Op. 279; Arizona Judicial Ethics Advisory Committee Op. 95-01

This opinion is issued by the Standing Committee on Judicial Ethics. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.



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Chairman