

Board of Ethics Decision 23-01/04

October 24, 2023

Complaint:

By email dated September 21, 2023, Mr. Tim Van Emden submitted an ethics complaint against Councilwoman Boyle-Tsottles. The Ethics Board notified Councilwoman Boyle-Tsottles of complaint on September 26, 2023. The complaint alleges Councilwoman Boyle-Tsottles is a partner of Boyle & Kahoe Real Estate and President of Site Services, LLC. The complaint alleges that the councilwoman's businesses stand to lose or gain money based upon how the council votes for zoning changes (L1 and B3) as well as building moratorium (Bill 23-005 and 23-025). The complaint alleges given the nature of her businesses and direct financial interests the councilwoman is in ethical violation of Harford County Code (HCC) Chapter 23, Section 23-5, Subsection C(2)(a) and C(2)(b). In addition, a second complaint (Case 23-04) was filed by Kate McDonald undated but signed alleging the same ethical violations due to her financial interest and ownership of Site Services LLC with her husband performing construction related support to industrial and warehouse distribution sites within the county.

Facts:

Councilwoman Boyle-Tsottles was elected in 2022. Councilwoman Boyle-Tsottles was repeatedly asked by the County Attorney's office to file her financial disclosure statements as required by HCC Section 23-6 C. The councilwoman received 3 separate notifications on April 12, April 28, and October 1, 2023. On October 6, 2023, Councilwoman Boyle-Tsottles filed her financial disclosure statement late. The disclosure form indicates it was signed May 4, 2023, but there is no proof or record of filing until October 6, 2023. On October 25, 2023, Councilwoman Boyle-Tsottles provided an affidavit indicating that Boyle & Kahoe Real Estate Inc has no interest in any real property in Harford County including "any properties in zoned LI, GI, or B3 and is not a party to a "contract of Sale to sell or purchase such zoned property."

As part of this affidavit, she stated that she is an agent for Boyle & Kahoe Real Estate, Inc, and it has no interest in any zoned property through her interest in the real estate company. Similarly, she indicated in her affidavit that Site Services LLC "has no interest in LI GI, or B3 zoned property within Harford County, and Site Services LLC is not a party to a Contract of Sale to sell or purchase such zoned property." Section 23-5 G prohibits elected officials from using one's status and position for personal gain or benefit to include direct or indirect private gain. Section 23-5 C (1) & (2) focuses on public officials and county employees using their authorities or positions for private gain.

Based on public records searches and her financial disclosure/affidavit, it is established that Councilwoman Boyle-Tsottles has a 100% interest in J Boyles Inc. She is also the owner and President of Site Services LLC, which is located on a 1.37 -acre lot owned by 2231 Conowingo LLC (SDAT ID W17755083). The county procurement department has verified that Councilwoman Boyle-Tsottles business, Site Services, LLC, is not registered and has not been awarded any county procurements contracts. Finally, Councilwoman Boyle-Tsottles has another land LLC in the county: Prospect Properties, LLC (SDAT ID W18029934), but it is owned by her husband (sole owner as stated in her affidavit). Therefore, this LLC is not subject to this

complaint investigation because her husband is not an employee or official that would be subject to HCC Chapter 23.

Analysis:

The councilmember is in clear violation of the Ethics Code, Section 23-6 A (1) and C (10), for failing repeatedly to file her financial disclosure statement timely. Although now filed (as of October 6, 2023), the financial disclosure form was incomplete. Since filing, Councilwoman Boyle-Tsottles provided an affidavit on October 25, 2023, stating that her businesses and financial interests have “no actual or equitable interest in properties affected by, or stand to lose or gain money as a result of, proposed zoning changes concerning property zoned LI, GI, or B3.” In her financial disclosure statement, she omitted her financial interest in 2231 Conowingo LLC (SDAT ID W17755083). In the case of 2231 Conowingo LLC owns the land on which her business Site Services LLC, is located. The 1.37acre parcel is assessed as commercial land.

She disclosed Site Services, LLC but the nature of business was omitted. However, in an affidavit, dated October 25, 2023, Councilwoman Boyle-Tsottles attested that neither Boyle & Kahoe Real Estate, Inc. and Site Services LLC have “no actual or equitable interest in properties affected by, or stand to lose or gain money as a result of, proposed zoning changes concerning properties zoned LI, GI, or B3.” In the case of Prospect Properties, LLC, the financial interest is with the Councilwoman’s husband and therefore is not subject to this complaint investigation as stated in her affidavit.

The Councilwoman disclosed J Boyle Inc on her financial disclosure statement; however, the purpose of the entity is unclear or whether there are reportable assets. Pertaining to Boyle-Kahoe Real Estate, Inc she affirmed that she and her real estate company have no interest in any real property in Harford County including any zone impacted properties. As stated, she disclosed Site Services, LLC (in the complaint), but clarified the interests in her affidavit stating it “has no ownership interest and is not a party to a Contract of Sale to sell or purchase such zoned property.”

The complaint (Case 23-04) from Kate McDonald) offers pictures of commercial industrial/warehousing related construction support from Site Services LLC, but as declared in her affidavit, there is no conflict of interest because there is no direct or indirect interest in any zoned properties impacted by the zoning or moratorium bills within Harford County.

For purposes of determining a conflict-of-interest violation, HCC Section 23-5 addresses employment relationships and business interests. The prohibitions are not simply a determination of having ownership or financial interest, but more on whether in the exercise of her non-ministerial duties as an elected official, her businesses and financial interests are directly or indirectly benefitting financially from her status as an elected official and is in direct conflict with her discretionary legislative role. Based on her affidavit, publicly available records, and open-source materials, her real properties and financial interests are not tied to Harford County or any zoning law changes. There is no direct or indirect affiliated interest causing a conflict of interest complained of in the complaint.

Because her financial disclosure statement filing was untimely and incomplete, there is still a timeliness violation (Section 23-6 C), which has the potential raises concerns by the public whether she may be using her elected position indirectly for personal or financial gain.

As stated above, she clarified her financial interests and involvement with her business entities. The county has verified that Site Services, LLC has not received any related county

procurements. Also, the Board did not determine the nature of J Boyle Inc. and whether there are reportable assets subject to financial disclosure. In evaluating Sections 23-5 C (1) & (2), as a public official, her businesses and financial interests are not directly or indirectly connected to properties affected by or stand to lose or gain money because of, the proposed zoning changes.

At this point, her failing to initially file a financial disclosure is an ethics violation. Accepting her affidavit, her companies or financial interests are not directly or indirectly benefiting financially from her duties and functions as an elected official. Therefore, there is no conflict of interest. Although the voting records and minutes were reviewed, there was no clear appearance of advocacy or position taking to influence from which her financial interests could monetarily benefit from zoning changes. As stated above, there is no actual interest in properties affected by zoning changes and her financial interests and affiliated businesses are not a party to a Contract of Sale to sell or purchase such zoned properties.

Decisions and Recommendations Made: Based on the analysis, disciplinary action is recommended. As a minimum, the Board recommends that she be fined \$5 per day for failing to file her financial disclosure statement timely after repeat requests consistent with Section 23-9 A (1). As a result of her affidavit submitted on October 25, 2023, the Board has determined she has satisfactorily resolved any uncertainty pertaining to her business entities and financial interests involving land holdings and commercial real estate.

The Board finds a violation in her untimely and incomplete financial disclosure statement initially raising concerns about ethical misconduct. The Board accepts the affidavit that her financial interests have not benefitted directly or indirectly from the zoning changes. Therefore, the Board finds no conflict-of-interest violation.

Since the companies (entities and financial interests) are involved in commercial real estate, the Board cannot stress enough the importance of timely disclosure and Councilwoman Boyle-Tsottles is reminded to take extra precaution to avoid any appearance of a conflict of interest and to timely file her financial disclosure statement and to consult counsel to avoid all appearances or actual conflicts of interest.

Board approved on November 6, 2023.

Kirk F Vollmecke

Kirk F. Vollmecke
Board of Ethics Chair