

November 16, 1972

OPINION LETTER NO. 188
Answer by Letter - Almstedt

Mr. Peter W. Salsich, Chairman
Missouri Housing Development Commission
3642 Lindell Boulevard
St. Louis, Missouri 63108



Dear Mr. Salsich:

Pursuant to your opinion request and the letters addressed to this office, a summation of the facts upon which you request is based would be the following:

On July 19, 1971, a certain individual (hereinafter designated employee) joined the staff of the Missouri Housing Development Commission (MHDC) and thereafter on March 1, 1972, submitted a notice of resignation to become effective March 31, 1972. On March 3, 1972, the employee and Mr. William R. Moore, Executive Director of MHDC, met with Mr. John Gibson, President of St. Louis Joint Executive Board -- Hotel and Restaurant Employees and Bartenders International/AFL-CIO (International) to discuss International's proposal to rehabilitate the Forest Park Hotel, St. Louis, Missouri, under Section 236 of the National Housing Act. The interim and permanent mortgage financing was proposed to be provided by MHDC (MHDC-72-126 project).

Between March 3, 1972, and March 31, 1972, the employee had contact with the MHDC-72-126 project in relation to the preparation of a feasibility study for said project. After the employee left the employ of MHDC, a formal

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application of the MHDC-72-126 project was submitted to the Executive Director of MHDC on April 24, 1972 wherein it was stated that the employee was a consultant for the project on behalf of the private promoter with allowable compensation. Thereafter, a formal presentation of the application was made to MHDC on May 17, 1972 during the May meeting of the Commission members.

Your question presented to this office is whether the employee's involvement with the MHDC-72-126 project on behalf of the private promoter constitutes a violation of Section 105.450, RSMo 1969, et seq., (conflict of interest law) if the MHDC were to authorize participation in such project.

Section 105.480, RSMo 1969, provides:

"1. No person who has served as an officer or employee of an agency shall within a period of two years after the termination of the service or employment appear before the agency or receive compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which the person was directly concerned and in which he personally participated during the period of his service or employment.

"2. Nothing herein contained shall be construed to prohibit any firm or association, in which any officer or employee of an agency is a member, from appearing, rendering services in relation to any matter before, or transacting business with the agency, where the officer or employee of the agency does not share in the profits resulting therefrom. Any person failing to comply with the provisions of this section shall, upon conviction, be adjudged guilty of a misdemeanor and be subject to a fine of not more than five hundred dollars or confinement in the county jail for not more than one year, or both."

By previous opinion of this office, No. 19, March 3, 1966, Warden, copy enclosed, the scope of the Missouri conflict of interest laws was sufficiently explained. Pursuant to the definition of "agency" in Section 105.450, RSMo 1969, the MHDC and

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its employees fall within the proscriptions of Sections 105.450 RSMo 1969, et seq. Furthermore, according to the facts above outlined, the employee of MHDC during the month of March, 1972, worked on the MHDC-72-126 project and after his resignation served as a paid consultant for that project's private promoter.

Section 105.480(1), supra, specifically prohibits the employee for a period of two years from the date of March 31, 1972, from in any manner "appear[ing] before the agency or receiv[ing] compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which the person was directly concerned and in which he personally participated during the period of his service or employment." (Section 105.480(1), supra). The latter section of Missouri law applies specifically to the employee's activities in relation to project MHDC-72-126. Such section renders his activities in relation to said project on behalf of the private promoter in violation of the Missouri conflict of interest laws if, in fact, it is determined that the employee "was directly concerned" and "personally participated" in the MHDC-72-126 project when employed by MHDC.

This opinion, however, is not to be read as prohibiting any action on the part of MHDC in either approving or disapproving project MHDC-72-126. The actions of the employee by themselves would constitute a violation of the Missouri conflict of interest laws.

It is the opinion of this office that the actions of the employee while with MHDC and subsequent to his termination from MHDC in serving as a paid consultant to the private promoter of the MHDC-72-126 project would constitute a violation of the Missouri conflict of interest laws if, in fact, it is determined that the employee "was directly concerned" and "personally participated" in the MHDC-72-126 project when employed by MHDC. Such a determination is made without the necessity of considering whether MHDC took or is to take any affirmative action towards the approval of the MHDC-72-126 project.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 19
3/3/66, Warden