

**CITY OF MADISON  
CITY ATTORNEY'S OFFICE  
Room 401, CCB  
266-4511**

October 26, 1998

**OPINION 98-010**

TO: Barbara Constans, CDBG

FROM: Eunice Gibson, City Attorney

SUBJECT: **Application of State and Local Conflict of Interest Laws - Member of Common Wealth Development, Inc., Board of Directors**

You have asked my opinion as to whether state or local laws would be violated in the following fact situation: The City of Madison grants HOME funds to Common Wealth Development, Inc. (Common Wealth), a private nonprofit corporation. Common Wealth uses the funds to purchase a building for use as commercial development and low income rental housing, according to applicable HOME regulations. Such activities of Common Wealth are authorized by its Board of Directors.

Occasionally, a nonprofit entity which applies for and is eligible to receive HOME funds has a Board of Directors member who holds a private interest in a company that might benefit from the nonprofit entity's use of the HOME funds. In this situation, a Common Wealth Board member owns a small (6%) stock interest in a company whose real estate is to be purchased with HOME funds by Common Wealth. Because the member may benefit financially from the use of the HOME funds, this situation would be in violation of the Department of Housing and Urban Development's conflict of interest regulations at 24 CFR 92.356(d).

24 CFR Sec. 92.356(d) provides for an exception to the conflict of interest regulations under certain circumstances. No exception is available if state or local conflict of interest laws are violated. In this case, there would be no violation of state or local law. The individual who is a member of the Common Wealth Board of Directors abstained from voting and refrained from discussion when this particular purchase was discussed. She has pledged voluntarily to donate her stock in the company to Common Wealth. In addition, she has made full written disclosure to Common Wealth of her stock interest in this particular company, and such disclosure was publicly

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stated at the Common Wealth Board meeting at which the purchase of the company's real estate was discussed.

Under these circumstances, no state or local law or ordinance is violated.

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Eunice Gibson  
City Attorney

EG:AZ:cam

CAPTION: State and local laws are not violated when a member of the Common Wealth Board of Directors owns stock in a company whose real estate is being purchased by Common Wealth with HOME funds, as long as full disclosure is made and the Board member refrains from taking part in any Common Wealth board action on the purchase of the real estate.

cc:: Hickory Hurie, CDBG  
Susan J. M. Bauman, Mayor  
Ray Fisher, City Clerk

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