

OHIO ETHICS COMMISSION

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David E. Freel, Executive Director

August 12, 2003

Francis G. Forchlone
City Prosecutor
Canton Law Department
Canton City Hall - 7th Floor
218 Cleveland Ave. SW
Canton, OH 44702

CONFIDENTIAL

Re: North Canton Mayor Tom Rice Investigation

Dear Mr. Forchlone:

This letter is a follow-up to our meeting with you and Canton Law Director Joseph Martuccio on July 11, 2003, and our telephone conversation on July 22, 2003, concerning the above-referenced matter.

As you know, on July 11, 2003, the Commission referred its final Report of Investigation to your office. After investigation, the Commission determined that there was insufficient evidence to warrant recommending that your office file criminal ethics charges against Mr. Rice, based upon allegations concerning his conduct while a public official in relationship to the zoning and development of property adjacent to his residence.

As set forth in the Report, generally, a public official is prohibited from using the authority or influence of his public office in any manner which would render a particular and definite pecuniary benefit or detriment to the value of his private property, except under the limited criteria described in Ohio Ethics Commission Advisory Opinion No. 92-019. These criteria balance an individual's Constitutionally-protected personal rights with the public interest in protecting against self-dealing and conflicts of interest by public officials, by allowing a public official to advocate his private property interests before the governmental entity in a very limited fashion.

Because of the extensiveness of Mr. Rice's actions in this matter, we recommended that your office take the opportunity to advise him, as well as other North Canton officials, of the law and its limitations, and caution Mr. Rice against any future actions that would run afoul of the law. We further recommended that you inform Mr. Rice that a vote he participated in during a February 14, 2000 Council meeting occurred in violation of the conflict of interest restriction contained in R.C. 102.03(D), because his actions involved an ordinance that directly affected his private property. However, the investigation documented that Mr. Rice received an opinion from the former Law Director that it was lawful for him to participate in this vote, and therefore, the evidence did not support criminal prosecution.

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It is my understanding that you sent correspondence to Mr. Rice and his counsel on July 21, 2003, informing him that you are continuing to review the Report of Investigation and also providing him with a copy of Advisory Opinion No. 92-019. In this correspondence, you also identified that you expected your review of this Report and follow-up investigation to be completed within 60 days.

As I stated during our telephone conversation on July 22, 2003, our investigation into these specific circumstances is concluded. The Commission gathered and examined all documents and testimonial evidence at issue, and determined that the facts are essentially uncontroverted. As discussed at our meeting with you and Mr. Martuccio, the Commission would suggest a joint admonishment be sent to Mr. Rice for his conduct, to ensure that he and all members of council and the public are informed of the standard of the Ethics Law with respect to public officials generally not participating in matters that affect their private property interests, except within the Constitutional parameters of Advisory Opinion No. 92-019.

Please call me once you have received this letter to discuss this matter further. Also, if you have any additional information directly relevant to the subject of the Commission's investigation that you want the Commission to review, please forward it directly to me as soon as practicable.

Sincerely,



Paul M. Nick
Chief Investigative Attorney

PMN

cc: David E. Freel, Executive Director
Members of the Commission
Lee E. Plakas, Counsel for Tom Rice