



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
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COLUMBUS, OHIO 43215
(614) 466-7090

Advisory Opinion Number 82-005
June 2, 1982

Syllabus by the Commission:

Division (D) of Section 102.03 of the Revised Code prohibits a city council member from receiving free cable television service from a corporation that holds a cable television franchise granted by the city.

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You asked whether Division (D) of Section 102.03 of the Revised Code prohibits a city council member from receiving free cable television service from a corporation that holds a cable television franchise granted by the city.

You stated, by way of history, that two years ago, the city council granted a cable television franchise to a corporation for a period of twenty years. After the franchise was granted, city council members began receiving free cable television service. Some members receiving the service were members of council at the time the franchise was granted; others were elected after the decision was made.

Division (D) of Section 102.03 of the Revised Code states:

No public official or employee shall use or attempt to use his official position to secure anything of value for himself that would not ordinarily accrue to him in the performance of his official duties, which thing is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

A city council member is a "public official" as defined in Division (B) of Section 102.01 of the Revised Code. Free cable television service is within the definition of "anything of value" in Section 1.03 of the Revised Code. Free cable television service would not ordinarily accrue to a council member in the performance of his official duties. Thus, a city council member is prohibited from receiving free cable television service if it "is of such character as to manifest a substantial and improper influence upon him with respect to his duties."

In Ohio Ethics Commission Advisory Opinions 79-002, 79-006, and 80-004, public officials and employees were advised that Division (D) of Section 102.03 of the Revised Code prohibits the solicitation or receipt of consulting fees, honoraria, registration fees, and lodging from parties regulated by the agencies with which they serve. These opinions were not limited to those situations where a matter was pending before the agencies; it was sufficient that the parties were regulated by the agencies.

In the instant case, neither an original franchise application nor a renewal is pending before the city council. However, city council is the government body that rules on franchise applications and renewals, and it is the body that would consider any issues arising concerning the cable television franchise. Therefore, free cable television service would manifest "a substantial and improper influence" upon a city council member because it may impair the public officials independence of judgment in any matter before the city council concerning cable television. In addition, this arrangement creates the appearance of impropriety, which should be avoided whenever possible.

The conclusions of this opinion are based on the facts presented, and are rendered only with regard to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that Division (D) of Section 102.03 of the Revised Code prohibits a city council member from receiving free cable television service from a corporation that holds a cable television franchise granted by the city.


MEROM BRACHMAN, CHAIRMAN
Ohio Ethics Commission