

December 1, 2023

Kathleen E. Gill, Esq.
City Manager
City of New Rochelle
515 North Avenue
New Rochelle, NY 10801

Re: Robert Cox Complaint dated October 30, 2023

Dear City Manager Gill:

The City of New Rochelle Board of Ethics recently received a letter from Robert Cox dated October 30, 2023. The letter alleges that Mayor Noam Bramson and City Council Member Sara Kaye voted on Resolutions to enter into contracts with Sustainable Westchester. At the time that they cast their votes, Mayor Bramson and Ms. Kaye sat on the Board of Directors of not-for-profit, Sustainable Westchester. A copy of the Complaint is attached.

New York State General Municipal Law (“GML”) governs conflicts of interest of municipal officers and employees. GML § 801 broadly prohibits municipal officers from having a personal interest in a contract with the municipality for which they serve. GML § 802 contains numerous exceptions to the prohibition. GML § 802(1)(f) provides that GML § 801’s prohibition does not apply to contracts with not-for-profits (“NFP”), such as Sustainable Westchester. Therefore, a City Councilmember is not prohibited from sitting on a Board of a NFP.

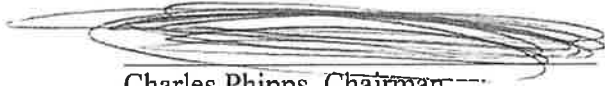
However, there are certain requirements that a City Councilmember must comply with while sitting on a Board of a NFP. First, GML §803 provides that the City Councilmember must publicly disclose his or her interest in the NFP each time it becomes apparent the City Council may enter into a contract with the NFP. Mr. Cox concedes that Mayor Bramson and Ms. Kaye disclosed their interest in Sustainable Westchester in their Financial Disclosures. However, the statute also provides that, “[s]uch written disclosure shall be made part of and set forth in the official record of the proceedings of such body.” GML § 803(1); City Charter § 94.02(3)(e). Second, “[a] municipal officer or employee shall promptly recuse himself/herself from acting on a matter before the city when acting on the matter or failing to act on the matter may financially benefit his or her interest.” City Charter § 94.02(3)(m). It is also alleged that was not done here.

“[C]ourt cases ... have negated certain actions which, although not constituting a literal violation of article 18, violate the spirit and intent of the statute, are inconsistent with public policy, or suggest self-interest, partiality or economic impropriety.” 2001 N.Y. Comp. LEXIS 9, at *8. Based on the foregoing, the Board of Ethics defers to you and Corporation Counsel (copied here) to further determine what, if any, next steps may be taken with respect to the complained of contracts.

This document may be signed in counterparts and an electronic signature is the same as an original signature.

Very truly yours,

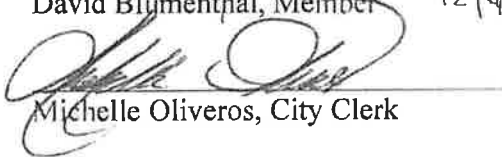
City of New Rochelle Board of Ethics



Charles Phipps, Chairman



David Blumenthal, Member 12/4/23



Michelle Oliveros, City Clerk

Cc: Dawn Warren, Esq.
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