

Kirk Allen

From: Kirk Allen <kirk@edgarcountywatchdogs.com>
Sent: Friday, January 04, 2013 3:03 PM
To: 'Scott.Lackey@illinois.gov'; 'Chris.Greenson@illinois.gov'
Cc: statt@edgarcounty-il.gov; 'steve.guess@edgarcountyillinois.com'; 'voigtjeff3@aol.com'; 'askisp@isp.state.il.us'
Subject: Conflict of Interest - Official Misconduct

Mr. Lackey,

As you are aware, indications of an actual and/or potential Conflict of Interest have surfaced with Edgar County Board Chairman Chris Patrick as it relates to his interest in Zimmerly Ready Mix.

I received through a FOIA to IDOT the copies of documents you provided to the Edgar County Clerk. The signature portion of that document outlines where a County Chairman would have to sign and that if it was not his signature a resolution authorizing another signer must be provided.

I believe it's necessary to inform you that during a recent County Highway meeting the subject of having the Vice Chairman Sign documents so that it would curtail any Conflict of Interest came up (audio available if you need it). I believe the statutes and case law are very clear in the fact that a Conflict of Interest is not curtailed by simply having someone else sign contracts. The purpose of the resolution option on those documents is to address those circumstances in which the proper signature of the leading official could not be obtained, such as in the case when the person would be incapacitated or out of town etc. If simply having someone else signed the document was enough to curtail a conflict of interest the statutes would say that, and they do not.

In fact, case law is well established and has been argued successfully that the language "**in the making or letting of which [he] may be called upon to act or vote**" shows a ***legislative intent to make criminal the possession of the prohibited interest during the negotiations.***

http://www.leagle.com/xmlResult.aspx?page=3&xmldoc=1975108031IIIApp3d1049_1882.xml&docbase=CSLWAR1-1950-1985&SizeDisp=7

I raise these issues and inform you as there is additional information I believe you need to be aware of. We have obtained Mr. Chris Patrick's Economic Disclosure Statements from the County Clerk for 2008, 2009, 2010 of which Mr. Patrick was the Chairman of the Airport Board.

Those signed documents, which all contain the following language;

VERIFICATION: "I declare that this statement of economic interests (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of my economic interests as required by the Illinois Governmental Ethics Act. I understand that the penalty for willfully filing a false or incomplete statement shall be a fine not to exceed \$1,000 or imprisonment in a penal institution other than the penitentiary not to exceed one year, or both fine and imprisonment,

reflect **NO DISCLOSURE** of Zimmerly Ready mix however we have proof obtained through a FOIA request to the County Treasure, that Zimmerly Ready Mix did in fact receive financial payments from the County Airport Fund for the following amounts and years.

\$4,273.65 in 2010

\$2,605.34 in 2009

\$133.13 in 2008

Please note, as I am sure you are aware, the disclosure of an economic interest **DOES NOT** void either the Prohibited Interest in Contracts statute or the Official Misconduct statute.

Looking at 23 CFR Ch. I (4-1-11 Edition) 1.33 which covers the Federal Conflict of Interest, it's clear that **"It shall be the responsibility of the state to enforce the requirements of this section"**. That section specifically spells out the Conflict of Interest guidelines and please note that there is NOTHING in that regulation that permits a conflict by the person simply disclosing the conflict or letting someone else sign the contracts, other than pertaining to land acquisitions.

I am of the opinion that not only is there a clear potential for a Conflict of Interest, but there has already been a Conflict of Interest by Mr. Chris Patrick as it relates to his positions of both elected County Board member and appointed Airport Board member.

Considering the Edgar County Airport has in fact received Federal funding and possibly funding from IDOT, it would be the responsibility of the State to enforce the requirements as they pertain to a Conflict of Interest based on Federal Regulations, as well as the state would be the enforcing authority as it relates to any state funded project.

Based on past actions, or lack of, in this county when it comes to accountability and compliance with the law I do not believe the county is going to take steps to enforce compliance with the law in regards to Mr. Patrick's situation. This opinion is based on the fact your notification to the County was provided almost a month ago and there has yet to be any remedy provided. I pray that opinion is proven wrong but I see no action leading me to believe they county is going to do anything.

I am asking that your agency, (IDOT) take the necessary steps to enforce both the Federal Regulations and State Statutes as it pertains to the known Conflict of Interest situation as it pertains to Chris Patrick, Edgar County Board Chairman. I believe the remedy should be at a minimum the removal from the County Board and at a maximum the establishment of a criminal investigation to confirm my findings of violations of both the Prohibited Interest in Contracts statutes and the Official Misconduct Statute.

I have taken the liberty to also provide copies of this correspondence to my County Board representative, the Edgar County States Attorney, the Edgar County Chief Deputy Sheriff, and the Illinois State Police.

If you have any questions or need any additional information please feel free to contact me anytime.

Sincerely,

Kirk Allen
PO Box 593
Kansas, IL 61933
217-508-0564