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FILE NO. NP-1203

COMPATIBILITY OF OFFICES:
Compatibility Between Offices
of Village Board Trustee and
Public Water District Trustee

Honorable Dennis P. Ryan
State's Attorney
Lake County
Waukegan, Illinois 60085

Dear Mr. Ryan:

I have your letter wherein you request an opinion as to whether the offices of village board trustee and public water district trustee are compatible. It is my opinion that the two offices are incompatible.

From the general rules laid down in People v. Haas, 145 Ill. App. 283, it appears that incompatibility between offices arises where the Constitution, or a statute, specifically prohibits the occupants of either one of the

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offices from holding the other, or where the duties of either office are such that the holder of one cannot in every instance, properly and faithfully perform all the duties of the other.

There are no constitutional or statutory restrictions in simultaneously holding the offices mentioned in your letter. Therefore, the question arises as to whether or not a conflict of duties exists if an individual were to occupy simultaneously the offices of a village board trustee and public water district trustee. The conflict of duties can best be explained by examining the kinds of issues that an individual in both offices must consider and decide or vote upon.

One of the decisions a trustee of the water district might have to make is whether to supply water to a village within a district which does not own a waterworks system when the village has passed an ordinance requesting the district to supply the water pursuant to section 206 of "AN ACT in relation to public water districts" (Ill. Rev. Stat. 1975, ch. 111 2/3, par. 206). In attempting to make

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a decision in the above area, to supply the water and to vote for the requesting ordinance, the dual office holder cannot fully and faithfully represent the interests of both units of government.

Another area of potential conflict arises under section 207 of "AN ACT in relation to public water districts" (Ill. Rev. Stat. 1975, ch. 111 2/3, par. 207) which allows the district to contract to supply water to a village owning a waterworks system within the district. In this case where the service is to be provided pursuant to a contract entered into between the village and the district, the dual officer is clearly representing, and attempting to negotiate a contract most advantageous to the interest of both parties to the bargain. The dual office holder cannot sit on both sides of the bargaining table with undivided loyalty.

Another obvious area of conflict would arise when a village annexes part of the territory of a public water district according to section 11-151-5 of the Illinois Municipal Code (Ill. Rev. Stat. 1975, ch. 24, par. 11-151-5) which provides:

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"* * * [T]he corporate authorities of the municipality and of the district may enter contracts providing for the division and allocation of duplicate and overlapping powers, functions and duties between the 2 entities and for the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of the district.
* * *"

It would not be possible for an individual holding the offices of village board trustee and public water district trustee to represent the interests of both the village and the district when they are contracting with each other on these important matters.

From the foregoing, I must conclude that the offices of village board trustee and public water district trustee are incompatible.

Very truly yours,

A T T O R N E Y G E N E R A L