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COMPATIBILITY OF OFFICES:
The Offices of Village Trustee and
Township Library Trustee Are
Incompatible

Honorable Richard Goff
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Dear Mr. Goff:

I have your predecessor's letter regarding whether one person may simultaneously hold the offices of village trustee and trustee of a township library located within the village. Because of the nature of the inquiry, I do not believe that the issuance of an official opinion will be necessary. Therefore, I will comment informally on the question that has been raised.

Incompatibility between offices exists where the constitution or a statute specifically prohibits the occupant of either office from holding the other, or where the duties of the two offices conflict so that the holder of one cannot, in every instance, properly and faithfully perform all the duties of the other. People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286; see generally People ex rel. Teros v. Verbeck (1987), 155 Ill. App. 3d 81.

There is no constitutional or statutory provision prohibiting one person from simultaneously serving as a village trustee and as a township library board member. Therefore, it must be determined whether the duties of either office are such

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that the holder of one cannot fully and faithfully discharge all of the duties of the other.

Although a village could not enact ordinances which would interfere with a township library's statutory powers and duties, a township library located within a village would be subject to local ordinances in general. Where a statutory mandate and local regulation are not irreconcilable, effect must be given to both. (See generally Village of Swansea v. County of St. Clair (1977), 45 Ill. App. 3d 184.) In such situations, the interests of the village and the township library could be divergent and contrary. A person holding office on the governing bodies of both a village and a township library located within the village could be placed in the position of favoring one governmental entity to the detriment of the other.

Another area of potential conflict arises from the statutory authority granted to both villages and township libraries to exercise the power of eminent domain. (Ill. Rev. Stat. 1987, ch. 24, par. 11-61-1; ch. 81, par. 4-7(13).) A village trustee who also serves as a township library trustee would be subject to a conflict of duties if the governing bodies were to oppose each other in the taking of property. Similarly, the purchase or lease of village property by the township library board would make it impossible for a person holding both offices to fairly represent the interests of the library and the village in such a transaction.

Other potential conflicts relate to contracts between the village and the township library. A township library is authorized by statute to contract with any public corporation or entity for specified purposes. (See Ill. Rev. Stat. 1987, ch. 81, par. 4-7(8).) In addition, the Intergovernmental Cooperation provisions of the Illinois Constitution (Ill. Const. 1970, art. VII, § 10) and the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1987, ch. 127, par. 741 et seq.) grant villages and other governmental units, such as public libraries, broad powers to contract or otherwise associate among themselves to obtain or share services, powers or functions. Again, if one person were to hold both of the offices in question, he or she could not fully represent the interests of both governmental units when those units contract with each other.

For the reasons stated above, it appears that the office of village trustee is incompatible with the office of township library trustee, and, therefore, one person cannot simultaneously hold both offices.

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This is not an official opinion of the Attorney General.
If we may be of further assistance, please advise.

Very truly yours,

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