

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion regarding the propriety of a judge's service as a member of the Board of Directors of the West Jefferson Amusement and Public Park Authority, which is financing the construction and development of VisionLand, a mixed-use entertainment project in Bessemer, Alabama.

It is the opinion of the Commission that the judge may not serve as a member of the Board of Directors of the West Jefferson Amusement and Public Park Authority. Canon 5G.

Canon 5 of the Canons of Judicial Ethics addresses the permissible scope of a judge's extra-judicial appointments. With respect to civic and charitable activities, a judge may serve as, *inter alia*, a director of "an educational, religious, charitable, fraternal, or civic organization or institution not conducted for the economic or political advantage of its members" subject to certain limitations. Canon 5B. With respect to extra-judicial appointments, Canon 5G states, in pertinent part:

It is desirable that a judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice or unless required by law.

The West Jefferson Amusement and Public Park Authority is a body subject to Canon 5G, rather than Canon 5B. It is a public corporation, and the directors are elected by resolution of a majority of the governing bodies of the participating municipalities. Its purposes, however public in nature, cannot be said to be "educational, religious, charitable, fraternal, or civic" so as to come within Canon 5B. Furthermore, Section 11-47-218(d), *Code of Alabama*, (1992), provides that directors are subject to impeachment or removal from office "in the same manner and on the same grounds provided by Section 175 of the Constitution of Alabama of 1901 and the general laws of the state for impeachment or removal of officers."

In Advisory Opinion 85-237, a copy of which is enclosed, the Commission held that a judge could not serve as a member of the Alabama State Fair Authority. In addition to Canon 5G, the Commission noted that Canon 2 and § 6.08 of Amendment 328 of the Constitution of Alabama (1901), read together, prohibit judges from seeking or accepting "any non-judicial elective office, or hold[ing] any other position of public trust, except service in the military

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forces of the state or federal government.” Without finding that membership on the Alabama State Fair Authority was a “position of public trust,” the Commission observed that, if it was such a position, such membership would be prohibited by both Canon 2 and Canon 5.

In this case, the judge should not serve as a member of the Board of Directors of the West Jefferson Amusement and Public Park Authority because the Authority’s activities are not concerned with “the improvement of the law, the legal system, or the administration of justice ...”

Very truly yours,