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STATE ETHICS COMMISSION
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June 9, 2023

Daniel Friedson, Esquire
City Council Solicitor
Office of City Council
City – County Building
414 Grant Street
Pittsburgh, PA 15219

Dear Mr. Friedson:

On June 2, 2023, the Pennsylvania State Ethics Commission (“Commission”) received your letter by which you requested an advisory pursuant to the Public Official and Employee Ethics Act (“Ethics Act”), 65 Pa.C.S. § 1107(10)-(11), with respect to issues related to the appointment of Silas Russell (“Mr. Russell”) as a Member of the Planning Commission of the City of Pittsburgh (“City”).

This is to inform you that an advisory cannot be issued in response to your aforesaid request letter for the following reasons.

Legal Standing:

You have not established legal “standing” to request an advisory with respect to the instant matter.

By law, the only persons or entities which have the authority or “standing” to request an advisory are: (1) the person whose conduct is in question or his authorized representative; (2) the appointing authority of the person whose conduct is in question; and (3) the present employer of the person whose conduct is in question. 65 Pa.C.S. §§ 1107 (10), (11). The Regulations of the State Ethics Commission define the term “appointing authority” as follows: “The person who is vested with the power to appoint, hire, or terminate; if the power is vested in a governmental body, a majority vote of a quorum of that body constitutes the appointing authority.” See, 51 Pa. Code § 11.1.

The fact that you are the City Council Solicitor is insufficient in and of itself to establish such standing. Given that the City Mayor has the power under Section 214 of the Pittsburgh Home Rule Charter to appoint Members of the City Planning Commission, the City Mayor would be considered to be the appointing authority of Mr. Russell. Accordingly, to the extent that your

questions relate to the conduct of Mr. Russell, in order to establish standing, you would need the express authorization of the City Mayor to request an advisory as to his conduct.

Non-Jurisdictional Questions:

To the extent that your questions pertain to the actions of City Council, advisory opinions address a particular person's duties under the Ethics Act. 65 Pa.C.S. § 1107(10)-(11). The conduct of City Council as a governmental body would not fall under the jurisdiction of the Commission.

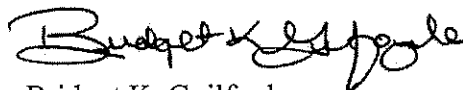
Insufficient Facts:

Pursuant to Sections 1107(10) and 1107(11) of the Ethics Act, 65 Pa.C.S. §§ 1107(10), (11), advisories are issued to the requester based upon the facts that the requester has submitted. In issuing the advisory based upon the facts that the requester has submitted, the Commission does not engage in an independent investigation of the facts, nor does it speculate as to facts that have not been submitted. It is the burden of the requester to truthfully disclose all of the material facts relevant to the inquiry.

To the extent that your questions relate to what, if any, laws, conflicts of interest and disclosures Mr. Russell should consider for himself if his appointment would be confirmed, the news articles and opinion column submitted with the advisory request would not constitute facts upon which an advisory as to Mr. Russell's prospective conduct may be based.

If you have any questions as to the above, please do not hesitate to telephone me at 1-800-932-0936 or (717) 783-1610.

Respectfully,



Bridget K. Guilfoyle
Chief Counsel

BKG/mwh