

Hypothetical Opinion No. 90-01

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion of PUBLIC OFFICER

The subject matter of this opinion is whether a public officer (NRS 281.4365) properly complied with the disclosure and abstention rules of the Ethics in Government Law (NRS 281.411 et seq.) on matters pending before a local city council, in which it is alleged the public officer had a significant pecuniary interest. Additionally, this opinion addresses the public officer's compliance with the statutory requirements concerning the filing of statements of financial disclosure (NRS 281.561). The Nevada Commission on Ethics (Commission) voted to render this opinion on its own motion, after determining there was just and sufficient cause based upon the appearance of a conflict of the public officer's interest in matters pending before the city council. (NRS 281.511(2)(b)). This matter came before the Commission, meeting in executive session, at which time the Commission heard testimony from various individuals. The Commission also received documentary evidence regarding the subject matter of this opinion. The Commission thereafter met for deliberations in executive session. Based upon the foregoing, the Commission makes these Findings of Fact and issues the hypothetical opinion that follows.

FINDINGS OF FACT

1. The public officer is an elected official. The public officer is a voting member of a city council.
2. The public officer was elected to the position of mayor in late 1980. Prior to that election, the public officer served on the city council.

A. The Partnership

3. In early 1985, a private party organized several partnerships for the acquisition of parcels of real property which would be sold by the U.S. Bureau of Land Management (BLM) at public sale. Several abutting parcels ultimately consisting of 55 acres were collectively called the partnership. The private party invited a number of people to invest and participate. The principals invested funds which were held first by a title company as trustee and thereafter by the private party as successor trustee pursuant to several agreements and declarations of trust for the parcels. The private party was trustee with the power to manage the assets of the trust for the purpose of bidding for the purchase of land from BLM. The private party thereafter submitted bids to the BLM for the purchase of the partnership's real property offered at public sale by the BLM.

The private party was the successful bidder for the partnership real property, which was located in a developing area of the city. Thereafter, the BLM issued several land patents to the private party conveying legal title to the various parcels. Additional abutting parcels were thereafter acquired.

The investing principals were the beneficial owners of the parcels of real property held by the private party as trustee pursuant to the agreement and declarations of trust. The private party managed the real property as trustee for all the principals.

The real property remained in trust for administration by the private party as trustee until it was conveyed to a general partnership, consisting of the same principals as partners. The evidence suggests that all of the partners have an equal vote in the administration of the partnership assets, mainly the real property, and that the trustee remained responsible for its necessary day-to-day management.

For clarity, the continuing relationship of the principals pursuant to the various agreements and declarations of trust, and later pursuant to the general partnership, to which the trust assets were conveyed, will be collectively referred to as "the partnership" in this opinion.

B. Significant Pecuniary Interest

4. The public officer invested a sum of money, which represented 10 percent of the partnership and its assets. This amount and the value of his continuing interest in the partnership was acknowledged by the public officer to be and was a "significant pecuniary interest."

C. Material Effect Upon Independence of Judgment

5. With respect to each of the matters described in Findings of Fact Nos. 6 through 21, inclusive, when before the city council, the significant pecuniary interest of the public officer was sufficient to have materially affected the independence of judgment of a reasonable person in the public officer's situation in his or her consideration of these matters.

D. The Parkway

6. In early 1980, a city in Nevada entered into an agreement with an investment (real estate) group which provided for the privately funded construction of a parkway. Conditions of the agreement included limited or restricted access to the parkway for a period of approximately ten years. From early 1980 to mid 1980 the city changed its access policy on the parkway because developers in the area and residents requested that access be provided to the parkway and public safety required access. The staff of the city manager's office began planning for the acquisition of land for access to, and through, the parkway.

E. The Interchange and Overpass

7. In late 1985, an administrative agenda item of the city council meeting addressed the acquisition of land for the construction of an interchange near the parkway. Staff's written recommendation addressed only the acquisition of the land for the interchange. During staff presentation the special projects manager indicated that staff was reviewing the interchange and an overpass. His oral presentation addressed the acquisition of land for access at both points along the parkway. The interchange is located approximately one-half mile from the property owned by the partnership. The property is near the proposed overpass. The public officer moved for approval of the staff recommendation. The written record reflects conflict in that the written staff recommendation was limited to the acquisition of BLM land only at the interchange, and the oral presentation included the acquisition of BLM land for both the interchange and the overpass.

The evidence suggests the special projects manager left the meeting and apparently believed staff had the authority to acquire land at both intersections, and in fact took steps to acquire this land for the city. Those steps are reflected in a memorandum issued by the special projects manager that day to the city manager and others addressing land acquisition for both areas.

8. While the public officer testified that he, at the time, felt that the construction of an interchange and parkway was too remote to have an effect upon the property owned by the partnership, he acknowledged in retrospect that the placing of an interchange approximately one-half mile from the property owned by the partnership would have a positive impact on the value of the property owned by the partnership.

9. The construction of an interchange at the parkway would improve access to the property owned by the partnership and reasonably would accelerate its development and increase its value. The construction of the

overpass near the property would have the same effect. Accordingly, either project individually, or both collectively, would reasonably affect the value of the property owned by the partnership and the public officer's interest in the partnership.

10. At a city council meeting in late 1985, the public officer made no disclosure either of his interest in the partnership or the ownership by the partnership of the property so affected. The public officer voted in favor of the motion to approve the recommendation made by staff.

F. The Zoning of Partnership Land in 1987

11. At a city council meeting in late 1987, an agenda item involved the tentative zoning of the land owned by the partnership. The partnership was represented by a partner in the partnership, who gave an extensive presentation regarding the zoning request. The public officer led the discussion regarding the agenda request. At the outset of the discussion, he disclosed that he had an interest in the agenda item according to remarks which appear in the city council minutes. The public officer abstained from the vote on the matter.

12. The public officer's request for advice of the city attorney was limited to whether he could conduct the meeting but not take part in the discussion. The city attorney limited his response and advice to that question and did not advise the public officer that NRS 281.481(3) required his disclosure of the "full nature and extent of his interest" in the matter, as that may relate to the land affected, its size and location, its ownership by the partnership, the public officer's interest in the property, or the relationship which the agenda item had with the property and the effect upon the property which the requested zoning change may have had.

13. The public officer did not disclose the full nature and extent of his interest.

G. Rezoning the Property in 1988

14. In 1988, at the city council meeting, an agenda item addressed the application of the partnership to rezone the property owned by the partnership. The partnership, again represented by a partner requested rezoning of its property from NU (non-urban) and PPD-14 (Residential Planned Development with a maximum density of 14 units per acre) to RCL (single family compact lot) and RPD-20 (Residential Planned Development with a maximum density of 20 units per acre).

15. The public officer made no disclosure at all with respect to the nature or extent of his interest in the agenda item. The public officer abstained from voting on the matter.

H. The Overpass Engineering Contract

16. In July 1989, at a city council meeting, an agenda item addressed the engineering contract for the overpass. A councilman requested postponement of the matter due to potential cost benefits if the engineering plans for the overpass and the interchange were drafted simultaneously. The public officer made a disclosure of his interest in the matter on the record. The remarks appear in the city council minutes. The matter was continued to an early October 1989, meeting and was held in abeyance until a mid-October 1989, meeting.

17. The public officer did not disclose the full nature and extent of his interest in the matter. He did abstain from voting on the motion to continue the matter.

18. At the mid-October 1989, meeting of the city council, an agenda item addressed the engineering plans for the overpass and the interchange at the parkway. The public officer made no disclosure of his interest in the matter. The public officer abstained from voting on the matter.

I. Zoning of Abutting Land Owned by a Private Developer

19. At a February 1990, meeting of the city council, an agenda item addressed an application to change the zoning of land owned by a holding company on behalf of a development corporation, represented by a private developer. The application was to change zoning from NU to RPD 9 (nine units per acre, with a common area and 32 foot private streets.) The land is located directly to the east of and abutted the property owned by the partnership. A motion was made instead to zone the land RCL which allows a density of eight units per acre, excluding common areas and private streets. The public officer testified at the commission meeting that he was critical of the quality of the developers product and characterized his project as spot zoning five acres for construction of a project involving smaller streets, zero lot lines, and connecting carports to adjoining houses. RCL zoning was opposed by the private developer because it did not allow for development in the way proposed.

20. The nature and quality of a project developed on property abutting that owned by the partnership reasonably may have an effect upon the uses and value of the property owned by the partnership. That effect upon value may be adverse or helpful depending upon the nature and quality of the abutting development approved.

21. The public officer made no disclosure of his interest in the partnership or the partnership's ownership of the real property abutting the developer's property on the east. He took part in the discussion and voted on the motion to zone the land RCL.

J. The Filing of Financial Disclosure Statements

22. The June 1987, statement of financial disclosure filed by the public officer for the appointed office of commissioner of a convention and visitor's authority was misfiled in the financial disclosure statement files in the office of the secretary of state. These files are available for public review at any time and were previously routinely handled by members of press and public. It is unclear whether the statement had been originally misfiled or had been reviewed by a member of the press or public and then misfiled. The statement was discovered by staff in a file review conducted pursuant to the investigation of this matter.

23. In November 1988, the public officer filed his statement of financial disclosure with the secretary of state for the appointed position of commissioner on a public commission. This statement is not present in the Commission's files. Entered into the record before the Commission is the affidavit of the public officer's secretary that the statement of financial disclosure for this appointment was prepared and mailed for filing in the normal course of business. The public officer's secretary also testified that the copy produced for the commission from the files of the public officer was a true and correct copy of the statement prepared by the public officer.

24. The filings of the two financial disclosure statements listed above are the only two which were in controversy and therefore before the commission for review. A review of the public officer's file in the secretary of state's office reveals compliance with the filing requirements of NRS 281.511 on the part of the public officer for all other appointive or elective offices previously held by the public officer.

25. Concurrently with any filing of financial disclosure statement with the secretary of state's office required by law, the public officer delivered to the office of the city clerk copies of the statement to be placed in a file for public review. This file included copies of the statements currently under review by the Commission.

OPINION

I. Generally

Based on the Findings of Fact, the commission concludes that the public officer during his tenure in local government was a public officer as defined by NRS 281.4365(1) and that, in both positions, he was a member of the legislative branch of government as defined in NRS 281.4355.

The subject of this opinion is whether the public officer had the duty to disclose and to abstain from voting on matters affecting his interest in the partnership, the main asset of which was and is a parcel of land located near the intersection of a parkway and a major street. This opinion also addresses the filing of financial disclosure statements by the public officer in accordance with NRS 281.561. The commission took up this matter on its own motion pursuant to NRS 281.511(2)(b), and this opinion is therefore issued under the same jurisdiction.

The Legislative Declaration and Findings which express the public policy of the Nevada Ethics in Government Law appear at NRS 281.421:

281.421 Legislative declaration and findings.

1. It is hereby declared to be the public policy of this state that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself to avoid conflicts between his private interests and those of the general public whom he serves.

2. The legislature finds that:

(a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interest.

(b) To enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.

Consistent with that policy and the specific provisions of the Code of Ethical Standards (NRS 281.481- 281.511, inclusive) the opinions of the Commission may include guidance to the public official pursuant to NRS 281.521(1):

1. The commission's opinions may include guidance to a public officer or employee on questions of whether:

(a) A conflict exists between his personal interest and his official duty.

(b) His official duties involve the use of discretionary judgment whose exercise in the particular matter would have a significant effect upon the disposition of the matter.

(c) The conflict would materially affect the independence of the judgment of a reasonable person in his situation.

(d) He possesses special knowledge which is an indispensable asset of his public agency and is needed by it to reach a sound decision.

(e) It would be appropriate for him to withdraw or abstain from participation, disclose the nature of his conflicting personal interest or pursue some other designated course of action in the matter.

II. Disclosure of a Significant Pecuniary Interest and Abstention From Voting

The general standards which public officers and employees must satisfy are provided at NRS 281.481, as set forth in pertinent part:

NRS 281.481 **General Requirements**

...

3. No public officer or employee may approve, disapprove, vote, abstain from voting, or otherwise act upon any matter in which he has a significant pecuniary interest without, disclosing the full nature and extent of his interest. Such disclosure must be made before the time when he is to perform his duty or concurrently with that performance....

Further, NRS 281.501 provides additional standards for members of the legislative branch (a city council) who vote on matters pending before them.

1. In addition to the general requirements of the Code of Ethic Standards, a member of the legislative branch should not vote upon, but may otherwise participate in, the consideration of a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

...

- b. his pecuniary interest; or
- c. his commitment in a private capacity to the interests of others.

...

[Emphasis added]

The Findings of Fact reflect that the public officer had a significant pecuniary interest in the partnership, and its real property, and as well as in those matters before the city council which affected the partnership and its real property, namely:

- (1) the interchange and the overpass with the parkway,
- (2) the zoning of the partnership real property in 1987,
- (3) rezoning of the partnership real property in 1988,
- (4) the overpass engineering contract, and
- (5) the zoning of the abutting land, owned by the private developer.

Accordingly, with respect to each of those matters when before the city council, the public officer had a duty to disclose the full nature and extent of his interest as required by NRS 281.481. It may have been a common practice to attempt disclosure by simply acknowledging "a conflict" or "an interest" in the matter. It may also be fair to observe that there has been generally lacking clear and helpful discussion of the meaning of disclosing "the full nature and extent of his interest" where in conflict. Reasonably, the "full nature and extent of his interest" in each matter when before the city council as it might reasonably affect his partnership's real property; however, should have included:

- (a) The size and specific location of the real property;
- (b) Its ownership by the partnership;
- (c) His personal interest in the partnership as a partner;
- (d) The relationship which the agenda item had with the real property, and
- (e) The effect upon the property which the agenda item reasonably might have.

Moreover, with respect to each of those matters, as set forth above, the significant pecuniary interest of the public officer would have materially affected the independence of judgment of a reasonable person in the public officer's situation in his or her consideration of those matters, thereby imposing a duty to abstain from voting upon each of those matters as required by NRS 281.501.

A. The Interchange and the Overpass

The record of the city council meeting regarding the interchange and the overpass (Findings of Fact Nos. 7, 8, 9 and 10), reflects that no disclosure was made at all of the public officer's significant pecuniary interest, in violation of NRS 281.481. Further, the independence of judgment of a reasonable person in the public officer's situation when considering the matter pending before the city council would have been materially affected by his significant pecuniary interest. Accordingly, the failure to abstain from voting was in violation of NRS 281.501.

The relevant Findings of Fact were based upon evidence that the interchange with the parkway would effect and enhance the value of the property owned by the partnership by improving access to the property and reasonably accelerating its development. An overpass would have the same effect. Access at either area individually, or together, would reasonably affect the value of the property owned by the partnership and the public officer's interest in the partnership. Those circumstances affected his significant pecuniary interest and would have affected the independence of judgment of a reasonable person in his situation.

B. The Zoning of Partnership Land in 1987

The record of the city council meeting regarding the zoning of the partnership real property in 1987, reflects that the public officer recognized that he had an interest, referring to his significant pecuniary interest in the matter; however, he failed to disclose the full nature and extent of that interest as required by NRS 281.481.

The independence of judgment of a reasonable person in his situation in the consideration of the matter would have been materially affected by his significant pecuniary interest. He did properly abstain from voting on the matter in compliance with the requirement of NRS 281.501.

The relevant Findings of Fact are based upon the evidence discussed. The public officer recognized the nature of his personal interest in the matter. His inquiry of the city attorney was limited to whether that personal interest prevented him from presiding over the meeting while not participating in the discussion. The city attorney did not advise the public officer of the statutory requirement that he disclose the full nature and extent of his interest in the matter. The city council minutes do not reflect whether either the public officer or the city attorney had considered the requirements of the law. In any event, the consequence was inadequate disclosure.

Those circumstances appear more aggravated in retrospect, in that no disclosure was made by the public officer that he was a partner in the partnership, the owner of the real property, that the trustee, who was present, was also his partner, and that the attorney making the presentation was his partner. Nor was it disclosed by him that the city manager was a partner. Those facts strongly suggest that the independence of judgment of a reasonable person in the public officer's situation would have been affected by both his significant pecuniary interest as well as his commitment in a private capacity to the interests of others, namely his partners.

C. The Rezoning of Partnership Land in 1988

The record of the city council meeting regarding the rezoning of the partnership real property in 1988 (Findings of Fact Nos. 14 and 15), reflects that no disclosure was made at all of the public officer's significant pecuniary interest in the matter in violation of NRS 281.481.

The public officer, however, did abstain from voting in, satisfaction of NRS 281.501. The independence of judgment of a reasonable person in his situation in the consideration of the matter necessarily would have been materially affected by his significant pecuniary interest. Accordingly, the public officer acted properly in abstaining from voting on the matter in satisfaction of the requirement of NRS 281.501.

The relevant Findings of Fact are based upon the evidence discussed. Again, the rezoning of the real property owned by the partnership had relevance to both the significant pecuniary interest of the public officer as well as to his commitment in a private capacity to the interest of others, namely his partners.

The reasons behind the public policy of disclosing the full nature and extent of a private interest are apparent. While abstention from voting serves the public interest by preventing the public officer from voting his personal or private interest, the public should be fully informed of the full nature and extent of that public officer's private interest. Only with disclosure can the public judge whether private interests either have been or should be removed from a public decision made by the city council.

D. The Overpass Engineering Contract

The minutes of the city council meeting of July 1989, regarding the overpass engineering contract (Findings of Fact Nos. 16, 17 and 18), reflect that the public officer disclosed that he has a piece of property in the area, referring to his significant pecuniary interest in the matter. He failed, however, to disclose the full nature and extent of that interest in violation of NRS 281.481.

The agenda item, however, was carried over to an early October 1989, meeting, and then to a mid-October 1989, meeting, where the item finally reached a vote of the council. No further disclosure was made by the public officer regarding his pecuniary interest in the subject matter of the item, in violation of the requirements of NRS 281.481. Apart from the issue of whether the full nature and extent of the future interest was ever disclosed, continued disclosure is required at every meeting in which the item is discussed. The requirement is not satisfied when a disclosure is made on the record at a meeting three and a half months prior to the substantive vote on the matter.

The independence of judgment of a reasonable person in the public officer's situation would have been materially affected by his significant pecuniary interest, therefore mandating abstention from any vote on the matter. The public officer properly abstained from voting in satisfaction of the requirement of NRS 281.501.

The relevant Findings of Fact are based upon the evidence discussed. As before, the public officer made partial disclosure of his personal interest, however, the full nature and extent of that interest again was not disclosed.

E. The Zoning of Abutting Land Owned by the Private Developer

Respecting the zoning of abutting land owned by the private developer (Findings of Fact Nos. 19, 20 and 21), no disclosure was made at all of the public officer's significant pecuniary interest in the matter in violation of NRS 281.481.

The public officer's partnership had no pecuniary interest in the developer's real property. Disclosure, nevertheless, was required because of his significant pecuniary interest in the abutting land owned by the partnership, the value of which reasonably may be affected by abutting development. The value of the partnership's real property reasonably would be reduced or enhanced by the surrounding and abutting development.

Further, the interest of the public officer in protecting the value of the land in which he has an ownership interest reasonably would have materially affected the independence of judgment of a reasonable person. Accordingly, his failure to abstain from voting on the matter was in violation of the requirements of NRS 281.501.

The relevant Findings of Fact are based upon the evidence discussed. Testimony given included the acknowledgement that the nature and quality of projects developed upon abutting property reasonably may have an effect upon the uses and value of the real property owned by the partnership. That effect may be adverse or helpful depending upon the type and quality of the project proposed. Absent disclosure by the official in keeping with

requirements of NRS Chapter 281, it is difficult to perceive how the public would gain knowledge of the public officer's personal interest in the agenda item.

III. Statements of Financial Disclosure

NRS 281.561 states in pertinent part:

Every...public officer shall file with the secretary of state, for review by the commission, a statement of financial disclosure as follows:

...

4. A public officer who holds an appointive office shall file statements of financial disclosure:

(a) within 6 months after his appointment; and

(b) During the sixth month before the expiration of his term, or if he serves at the pleasure of the appointing authority, during the sixth month before the expiration of the term of the appointing authority, or if the appointing authority has no fixed term, within such period as the commission describes.

In reviewing the conduct of the public officer regarding the statutory duty to file statements of financial disclosure (Findings of Fact Nos. 22, 23, 24 and 25), Commission staff made a search of the statements of financial disclosure by the public officer on file with the secretary of state. The questions concern his compliance with the statutory requirements of filing statements for his appointment to a public commission in 1988 and his appointment to a convention and visitors authority in 1987. With respect to the filing of the statement for the position of commissioner on the convention authority, the commission concludes that the statement was misfiled in the Commission office, not due to any failure on the part of the public officer to comply with his statutory duty to file.

With respect to the disclosure statement for the public commission in 1988, which was not contained in the commission files, the testimony of the public officer's secretary, as well as the testimony of the public officer is compelling that it was prepared, mailed and received by the state central mail office. That it was not received by the secretary of state's office does not appear to be the fault of the public officer.

The evidence received by the commission indicated that copies of the two financial disclosure statements were also filed with the clerk of the city for review by the public.

GENERAL COMMENT

This opinion and its Findings of Fact concern occasions when there was no disclosure at all of a significant pecuniary interest and no abstention from voting on the matter, as well as occasions when some personal interest was disclosed by acknowledgement without disclosure of its full nature and extent, however, with an abstention from voting.

Nevada law permits one to "otherwise participate in the consideration of a matter" (NRS 281.501(1)) in which one does have a significant pecuniary interest and even where he or she must abstain from voting on the matter because "the independence of judgment of a reasonable person would be materially influenced" thereby. The public officer did participate at times and at times he did not.

Nevada law is not consistent in that the financial disclosure statements filed with the Secretary of State do not require disclosure of the "full nature and extent of his interest" in real property. Required is only "a list of the general location and normal use of any real estate in which he or she has a legal or beneficial interest." (NRS 281.571(3)). The financial statements so filed by the public officer went beyond the "general location" and reflected the exact location of the real property owned by the partnership. The lesser standard of the statement of financial disclosure

as compared with the required disclosure of the "full nature and extent of the interest" before voting or abstaining is inconsistent and likely to cause confusion.

The facts and circumstances of the occasions discussed in this Opinion and its Findings of Fact reflect only a vague and inadequate understanding of the requirements of disclosure, where one has a significant pecuniary interest in the matter, and of the requirements of abstention from voting, where the independence of judgment of a reasonable person in that situation would be materially affected by (1) that pecuniary interest, (2) any commitment in a private capacity to the interests of others, or (3) the acceptance of a gift or loan. An adequate understanding of those requirements and their diligent application is necessary on the part of both the public officer and the legal advisor serving the legislative body, whether a city council, a county commission, or the state legislature, or serving a board.

The evidence of this matter suggests a casual view of the disclosure and abstention requirements of Nevada law and a lack of understanding of their meaning and public purpose. The unfairness of a generalization should be avoided. At the same time, however, concern may be warranted that casualness of view and lack of understanding may not be generally uncommon. It may be reasonable to observe that the public officer's acknowledgement only of "a conflict" or "an interest," which does not satisfy disclosure of "the full nature and extent of his interest," may be consistent with a practice in Nevada which is common. To the extent that this practice is common or usual, however, it should be understood that it satisfies neither the requirements of the law nor its spirit and purpose. It is incumbent upon public officers to inquire what the law is and how it applies to their own circumstances. It is also incumbent upon city attorneys, county legal counsel, and legal counsel for public officers generally to call attention to these requirements and standards and how they apply to the circumstances.

Even where a financial disclosure statement is properly completed and filed, the public officer's timely disclosure of the full nature and extent of a private interest in a pending matter is essential. Without disclosure at the time of discussion and action, neither the public nor other members of the particular legislative body can weigh the relevance of the circumstances of the public officer's private interest. While abstention from voting serves the public interest by preventing the public officer from voting his or her personal or private interest, the public should be fully informed of the full nature and extent of that public officer's private interest. Only with disclosure can the public judge whether private interests either have been or should be removed from a public decision made by a city council. This is even more significant under the liberal provisions of Nevada law which permit discussion and advocacy in the consideration of the matter by the public officer even where he has a significant pecuniary interest in the matter and where he must abstain from voting because of its material effect upon the independence of reasonable judgment of the matter.

With respect to the statements of financial disclosure and their filing with the Secretary of State, which were reviewed in this opinion and its findings of fact, the facts and circumstances reflect no misconduct on the part of the public officer concerning their content or the duty to file. In one instance, the statement was misfiled at the Commission office. In the other instance, the evidence is compelling that it had been properly mailed and was received by the appropriate state mail office in Carson City for delivery to the Secretary of State. That it apparently was not filed is not the fault of the public officer.

Lastly, it would seem reasonable that the Nevada Revised Statutes should be clarified and improved by requiring that the filed financial disclosure statements reflect the full nature and extent of the public officer's legal or beneficial interest in real property and that the specific location of that real property be identified. Moreover, in order to provide reasonable public access, the filing of such statements should be required not just at the Secretary of State's office in Carson city, but also with the clerk or secretary of the legislative body on which the public officer serves, whether the Nevada Legislature, a county commission or a city council.

DATED: December 31, 1990.

NEVADA COMMISSION ON ETHICS

By: /s/ THOMAS R. C. WILSON, II, Chairman