

Maryland Judicial Ethics Committee

Opinion Request Number: 1973-03

Date of Issue: April 23, 1973

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge May Serve as Unpaid Director of Charitable Corporation Operating Senior Citizen Apartments but Prohibited in Solicitation of Funds

You have asked for an advisory opinion from the Judicial Ethics Committee as regards the propriety of your continuing to serve as a member of the Board of Directors of X, Inc., and as President of the Board. You have informed us that X, Inc., is a corporation which has no capital stock outstanding; has five Directors, who are elected by the Vestry of Y Church, _____, Maryland, and that the officers of the corporation are elected by the Directors. You have also stated that no officer or director receives any compensation whatsoever.

X, Inc., has built and is currently operating under the supervision of a paid manager a seven-story apartment building in _____, which provides housing for senior citizens with limited incomes. Funds for the erection of the building were obtained from HUD and the loan is secured by a long-term, low-interest rate mortgage.

Your concern stems from the fact that this Committee is of the opinion that Rule 6 of our Rules of Judicial Ethics prevents a judge from being an officer or director of any corporation which is "affected with a public interest," and that we have consistently taken the position that a corporation which is subject to governmental regulation is one affected with a public interest.

However, the Committee is of the opinion that the prohibition contained in Rule 6 is not applicable to a nonprofit organization formed for charitable purposes which has no stock outstanding and that a judge may serve as a director or officer of such a corporation so long as he is mindful of Maryland Rule 8, which prohibits participation by a judge in a solicitation of funds, and the spirit of Canon 5B of the American Bar Association's Code of Judicial Conduct, which permits service by a judge as an officer, director, trustee or non-legal advisor of a religious or charitable organization not conducted for the economic advantage of its members, so long as such an organization is not engaged in proceedings in his court or is not regularly engaged in adversary proceedings in any court.

You will understand, I am sure, that this opinion is restricted to the facts which you have presented.