

## Maryland Judicial Ethics Committee

**Opinion Request Number:** 1975-06

**Date of Issue:** May 22, 1975

**O** Published Opinion    **G** Unpublished Opinion    **G** Unpublished Letter of Advice

Judge May Own Real Estate but Not Actively Manage Property or Negotiate Sale

You have advised this Committee that on January 25, 1975 your brother, acting in his own behalf and yours, purchased at public auction a farm which was sold incident to the settlement of the estate of X. You also stated that while the farm was not purchased with the intention of making a resale, it adjoins the property of the University Y and there have been recent indications that the University might be interested in acquiring the farm. The correspondence to date has been between the University and your brother.

The specific question which you raise is to whether an ethical problem will exist if you and your brother should sell the farm to the University at a private sale.

There is no provision in the Maryland Canons or Rules of Judicial Ethics which would prohibit the ownership or acquisition of real estate by a judge. Canon 5C(2) of the American Bar Association's Code of Judicial Conduct gives further guidance in providing that a judge may hold and manage investments, including real estate, provided that this does not tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position or involve him in frequent transactions with lawyers or persons likely to come before his court.

It is obvious that this Committee cannot insulate you from any criticism which may be directed at your purchase of the farm or immunize you from any criticism which may be leveled at a disposition of your interest. It occurs to us, however, that acceptable guidelines for the proper conduct of a judge as regards the management of real estate acquired as an investment may be found in the discussion which appears in In re Foster, 271 Md. 449, and particularly at pages 474-475 (1974), which makes it quite clear that a judge should take no active part in the management of real estate in which he has an interest. The same prohibition would extend to his participation in negotiations looking toward a sale or other disposition.