

Maryland Judicial Ethics Committee

Opinion Request Number: 1976-11

Date of Issue: October 4, 1976

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge May Own Building Leased to Lawyer; Not Disqualified from Hearing Cases in Which Tenant Is Counsel

This is to acknowledge your letter of September 21, 1976, in which you advised that shortly after your appointment to [the bench,] you leased the first floor of your office building, fully equipped including library, to a member of the County Bar, one X, at and for the sum of \$300 a month. You advise that this attorney has appeared before you on several occasions including a trial by jury, and that you have never been asked to disqualify yourself in these cases. Further, you advise that this law office building was built only for that purpose and cannot be converted for any other purpose without a large expenditure.

For the further information of this committee, you have informed us that if you should be unsuccessful in the election for your judicial office in 1978, you will necessarily be forced to return to and reoccupy your building for the practice of law, and you ask the ruling of this committee which “would cover my present circumstances concerning my relationship with Mr. X.”

You also ask whether you must relinquish ownership of this building if elected to your judicial office in 1978.

The subject of the ownership of real estate by a judge was discussed by this committee in [Opinion Request No. 1975-06,] dated May 22, 1975 It was there pointed out that there is no specific provision in the Maryland Canons or Rules of Judicial Ethics which would prohibit the ownership or acquisition of real estate by a judge. Reference was made to Canon 5C(2) of the American Bar Association’s Code of Judicial Ethics 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.

Maryland Canon XXIV is in the same spirit, although real estate is not specifically mentioned.

[Opinion Request No. 1975-06] also refers to In re Foster, 271 Md. 449, with particular reference to pages 474-475, making it quite clear that a judge should take no active part in the management of real estate in which he has an interest and that this prohibition would extend to his participation in negotiations looking toward a sale or other disposition.

We find nothing in the facts that you have related to us that would constitute a violation of either the Maryland Canons or Rules so long as your relationship with the attorney mentioned is one strictly of landlord and tenant. We believe that this relationship would not give rise to reasonable suspicion that you are utilizing the prestige of your office to persuade or coerce others to patronize this attorney or to promote his business interests. As was pointed out in [Opinion Request No. 1975-06], however, this committee cannot insulate you from criticism that may be directed at your relationship with this attorney if that relationship should now be or become more than one of landlord and tenant.

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With respect to your second inquiry, we prefer to refrain from ruling on a future factual situation that may or may not arise. We believe that the question should then be answered in the light of the then existing circumstances.