



JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629
Charleston, West Virginia 25326-1629
(304) 558-0169 • FAX (304) 558-0831
September 28, 2001

Re: JIC Advisory Opinion 2001-19

Dear ,

In a letter to the Judicial Investigation Commission you asked for an advisory opinion. You stated that you and your wife own a residence in the Historic District in the City of . Your adjacent neighbors have announced plans to open and operate a commercial "Bed and Breakfast" and are proceeding to remodel their single family residence accordingly, although the present city ordinance expressly prohibits such a commercial business in the special historic residential district. You further stated that you and your wife and other residents in the historic district are distressed by the plan to open this commercial venture and believe that its presence will diminish the value of your homes and destroy the character of the neighborhood.

Realizing that the plan violates the special zoning ordinance, the offending neighbors have caused to be drafted and submitted to the city council a proposed ordinance drastically amending it so as to permit "Bed and Breakfast Inns" within not only your particular historic district, but also the Historic District. You asked whether under these circumstances personally and intimately involving your own property interests you could take and express public opposition to the proposed city ordinance or any action designed to violate the present ordinance without you violating any provision of the Code of Judicial Conduct.

After reviewing your correspondence, it is the opinion of the Commission that you could, pursuant to the Code of Judicial Conduct appear as a private citizen to express your opposition to the proposed ordinance which would impair your own property interests. You would be doing so as a private landowner and not in your capacity as a circuit judge. Obviously, if any matters related to an ordinance were to end up in the circuit court you would have to recuse yourself from the matter.

September 28, 2001

Page Two

It is hoped that this fully addresses the question which you have raised. If there is any further question regarding these matters do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Donald H. Cookman', followed by a horizontal line.

Donald H. Cookman, Chairperson
Judicial Investigation Commission

DHC:nb