



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

May 7, 2018

Re: JIC Advisory Opinion 2018-11.

Dear Magistrate :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The facts giving rise to your request are as follows:

In addition to serving as Magistrate, you are also one of eleven licensed attorneys in your county. You are interested in purchasing a building located approximately 100 yards from the Courthouse. The building is currently owned by an attorney who is in the process of retiring. The only other occupants of the building are two lawyers who work under the firm name of . The two lawyer occupants intend to remain as tenants of the building after it is sold. Presently, they do not normally appear in Magistrate Court since their practice is mostly devoted to felonies in circuit court and abuse and neglect cases. In fact, the last time either lawyer appeared before you was six months ago. You want to know if you can purchase a building that you will rent to attorneys who infrequently appear before you. Alternatively, you want to know if a parent or other relative may buy the property so long as you obtain no financial or material benefit.

To address the questions, the Commission has reviewed Rules 3.11(A) and (C) of the Code of Judicial Conduct which provide:

Rule 3.11 – Financial, Business, or Remunerative Activities

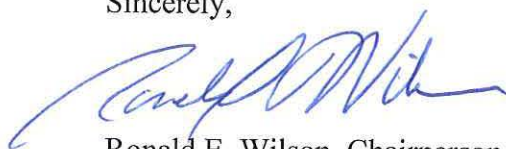
- (A) A judge may hold and manage investments of the judge and members of the judge's family. . . .

- (C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:
- (1) interfere with the proper performance of judicial duties;
 - (2) lead to frequent disqualification of the judge;
 - (3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or
 - (4) result in violation of other provisions of this Code.

In your request, you correctly note that our former advisory opinions have carved out some exceptions on the issue of judges renting property to lawyers as long as the exceptions do not violate any of the provisions set forth in Rule 3.11(c). However, all of those opinions involve judicial officers who already owned the rental property before first taking the bench. It is the opinion of the Commission that you cannot buy the building and rent to lawyers while you are a judicial officer because to do so could create a possible recusal situation when the lawyers do need to appear in magistrate court. As you are aware, your judicial duties must take precedence and you should presumptively avoid creating possible disqualification scenarios whenever possible as long as you choose to serve as a magistrate. However, a family member may purchase the building as long as you obtain no financial or material benefit.

Thank you for your inquiry. If there is any further question regarding this matter please do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ronald E. Wilson", is written over a horizontal line.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat