

Village of Mamaroneck
Ethics Board
Advisory Opinion 2024-1

Opinion of the Ethics Board

On February 7, 2024, Village of Mamaroneck Mayor Sharon Torres sent an email to the Ethics Board, requesting an Advisory Opinion, pursuant to Code of Ethics section 21-16 A.

The mayor's email stated that her request for an opinion arose from questions regarding the participation of village trustee Emmanuel Rawlings in the Board of Trustees' process for the proposed development of the Hunter tier parking lot. Because it had been alleged that Trustee Rawlings is a judgment debtor in an eviction action brought by one of the developers seeking approval, the mayor questioned whether the trustee's participation would, under the Code of Ethics, "give the reasonable appearance of impropriety (Section 21-4 (C)(1))."

Opinion of the Ethics Board

- Trustee Rawlings should recuse himself from taking part as trustee in all discussions, proceedings and votes relating to the Hunter tier development matter in which the Washingtonville Housing Alliance ("the WHA") is under consideration for selection, because the trustee's mother was a Respondent in a Petition for Nonpayment of rent brought by the WHA, which is one of the parties seeking approval as developer. Trustee Rawlings's participation would, pursuant to code section 21-4 C (1), "...give the reasonable appearance of a conflict of interest..."
- Trustee Rawlings retains his right as private citizen to express his opinion on the Hunter tier development and the village's decision-making process. At such times as the Board of Trustees undertakes any discussion, vote, or public hearing of the project, Trustee Rawlings must step down from the dais, panel or formal array of trustees. He should not be present during any executive session involving the development. He may be present and participate as a member of the public in any public session
- Based on 1) the Ethic Board's examination of the Petition for Nonpayment file in the matter entitled Washingtonville Housing Alliance, Inc. against Tiffany Rawlings and Emmanuel Rawlings in Mamaroneck Town Court; 2) information provided to the Ethics Board by the law firm that represented the WHA in its Petition for Nonpayment, and 3) research conducted by the board's legal counsel at the board's request:
 - there is no judgment outstanding against Trustee Rawlings arising from the Petition for Nonpayment
 - no money judgment was entered against Trustee Rawlings in the case
 - no collection case has been brought against Trustee Rawlings, and
 - there is no open action regarding the petition.

The Request for an Advisory Opinion

On February 7, 2024, Mayor Sharon Torres wrote the following email to the Ethics Board:

From: Mayor Sharon Torres <storres@vomny.org>
Sent: Wednesday, February 7, 2024 4:53 PM
To: BoardofEthics <EthicsBoard@vomny.org>
Cc: Rawlings, Manny <mrawlings@vomny.org>
Subject: Advisory Opinion

Good Morning,

During BOT meetings, residents have claimed that Trustee Rawlings may have a conflict of interest and should recuse from any participation in and/or voting on a proposal to develop the Hunter Tier Lot for affordable housing. Their claims are specifically based on the proposal from WestHab/Washingtonville Housing Alliance and Trustee Rawlings alleged unpaid default judgement.

In full transparency, Trustee Rawlings and I discussed it about two weeks ago. While I understand there may be no intent, I find it incumbent upon me to get ahead of this situation and to request an advisory opinion pursuant to Chapter 21-16. It is necessary for the Board to know any possible conflicts or future issues in order to protect both the Trustee and the Village. In particular, as there are other members of the board who insist on speeding up the process with this vendor, this has moved from a simple question to a matter of urgency and great importance.

Trustee Rawlings resided in a building at 725 Old White Plains Road for years. When running for Trustee he signed, under penalty of perjury, a petition stating that was his address on March 28, 2022. Washingtonville Housing Alliance (owner of the rental building at 725 Old White Plains Road) along with their strategic partner Westhab was in the process of evicting Rawlings in 2022/23. They subsequently obtained a default judgment against Rawlings in the amount of approximately \$24,000 of back (unpaid) rent and/or fees (attached). It is unknown if the debt was paid, forgiven by Westhab or left open.

In November 2023, Westhab/Washingtonville Housing Alliance submitted a proposal, in response to an RFP, to be considered as the developer of the Hunter Tier Lot.

For review:

1. Is Trustee Rawlings' continued participation in the developer selection process while, potentially owing one of the proposal respondents money give the reasonable appearance of impropriety (Section 21-4 (C)(1).
2. If the debt is still outstanding and/or Westhab/Washingtonville Housing Alliance chose not to enforce the court ordered judgment, would this be seen as an attempt to gain favor from Trustee Rawlings to support their project. (Section 21-4 (A))

3. Could it be inferred that a lack of enforcement of the judgment be considered an improper “gift” under Section 21-4 (D) (2)?
4. It appears that Sections 21-4 (G) - Misuse of authority and 21-4 (H) - Misuse of Privilege, could also be considered an issue if Trustee Rawlings were to proceed with voting.

Because the Village Board is currently evaluating the proposals for the Hunter Tier Lot I respectfully request that this advisory opinion request be considered as quickly as possible. Meetings have become contentious around the issues of affordable housing and flooding. Clearing this question will help the Board to move forward.

Thank you in advance for your time and attention to this matter.

Sharon Torres
Mayor
Village of Mamaroneck

<https://www.village.mamaroneck.ny.us/>

The Ethics Board’s Inquiry

Following receipt of the mayor’s email, the Ethics Board sent to Trustee Rawlings a series of questions. The questions, and Trustee Rawlings’ replies are attached as an Appendix.

The board’s questions were intended to determine whether Trustee Rawlings had any association with the WHA, and his knowledge of the Petition for Nonpayment in which he was named.

In his answers to questions, Trustee Rawlings stated that he had no association with the WHA, and was uncertain as to his status regarding the Petition for Nonpayment.

The board then requested that Trustee Rawlings meet with the board for an interview at the board’s regular meeting on February 21, 2024. He agreed to do so, and the board met with Trustee Rawlings in executive session, pursuant to Open Meetings Law section 105 f. The interview was transcribed by a court stenographer. The interview was not conducted under oath.

During the interview, in response to questions, the trustee stated that he had resided at the apartment at 725 Old White Plains Road since early childhood, until mid-July or August 2022. He said that the Respondent in the petition, Tiffany Rawlings, is his mother. The trustee did not recall ever signing a lease or obligation to pay rent on the apartment. He said that he recalled at some time signing papers regarding his occupancy of the apartment that were required for eligibility for Section 8 housing. He said he had no knowledge of the Petition for Nonpayment until he read about it in the Mamaroneck Observer. He said that he was unaware of any judgment or collection action against him. He stated that he never appeared in court on the petition, and was never contacted by a lawyer or other party regarding his status in the petition. He said that he did give his mother a written statement to be submitted to the court, stating that he did not reside at the apartment. (The board noted that the court’s Order which stayed the warrant of eviction is endorsed with a handwritten entry stating: “...Tiffany Rawlings appeared and it being represented that Emmanuel Rawlings was no longer a tenant in said premises....”)

Trustee Rawling said that in fact his mother moved out of the apartment before an eviction was effectuated.

Prior to the board's February 21 meeting, the board contacted the law firm that represented the WHA in the Petition for Nonpayment, and made inquiry regarding the action. In a telephone conversation, the lawyer who represented the WHA in the action gave the board his recollection of the case, and said that he would instruct an employee of the firm to consult the firm's file for the information requested.

Following the lawyer's inquiry of the firm's file, he affirmed the recollection of the case that he gave to the board in the initial telephone conversation, and together with the review of the file, represented the following:

- The firm initiated a nonpayment proceeding and obtained a judgment of possession for the WHA
- No money judgment was entered against Trustee Rawlings
- No collection case was brought by his firm against Trustee Rawlings
- The law firm does not have any active case against either Trustee Rawlings or Tiffany Rawlings

The lawyer added that he did not know if the WHA had retained other counsel to seek a money judgment for the arrears that were owed.

The Ethics Board then requested that the board's legal counsel conduct research to determine whether there was any other action brought or pending against Trustee Rawlings, aside from the Petition for Nonpayment. The board's counsel reported to the board that the New York State Courts Electronic Filing System, which picks up all cases in the New York Supreme Court, and the County Clerk's Office, where judgments are filed, contained no responsive filings for Emanuel Rawlings, Manny Rawlings or Tiffany Rawlings.¹

The Petition for Nonpayment

The Ethics Board also examined the official case file for the petition at Mamaroneck Town Court. The pleadings and affidavits in the file indicate:

- A "Notice of Petition of Nonpayment" was brought on February 17, 2023 on behalf of the WHA. The petition named "Tiffany Rawlings, Emmanuel Rawlings-Occupant" and John Doe/Jane Doe". The "Petition Nonpayment" itself identifies Tiffany Rawlings as "Respondent" in singular form, and Emmanuel Rawlings as "Occupant". The petition refers to John Doe/Jane Doe as undertenants of the Respondent/Tenant and states that the Respondent (singular tense) is in possession of the premises.
- The petition was brought in Mamaroneck Village Court, but later was transferred to Mamaroneck Town Court. A judgment of possession against Tiffany Rawlings and

¹ The Ethics Board also initiated an email inquiry with the WHA, but as of the date of this opinion, has not received a reply. In the interests of responding expeditiously to the mayor's request, and given the current status of the Hunter tier matter, the board believes that its discussions with WHA legal counsel, its review of the public file and the research conducted by the board's counsel sufficiently support its findings regarding the petition.

Emmanuel Rawlings was ordered in favor of WHA on May 30, 2023 and was stayed until July 31, 2023.

- According to an Order date July 10, 2023, which identified Tiffany Rawlings and Emmanuel Rawlings as “Respondents”, a stay of execution of a warrant of eviction was issued until July 31, 2023. The Order, including a handwritten entry by the court states:

-osc filed 6/27/2023
On the Motion of: TIFFANY RAWLINGS & EMMANUEL RAWLINGS, 725 OLD WHITE, PLAINS ROAD, APT 5 MAMARONECK, NY 10543, heard by this Court on 7/5/23, wherein
Tiffany Rawlings appeared and it being remembered that Emmanuel Rawlings was no longer a tenant on said premises,

The orders, pleadings, affidavits and other documents in the court file indicate as follows:

- The official court file contains no “default judgment against Rawlings in the amount of approximately \$24,000 of back (unpaid) rent and/or fees (attached).” The attachments in the mayor’s email consist solely of a notice of petition and a petition for nonpayment.
- Trustee Rawlings was never personally served with any notice or order relating to the matter. All affidavits of service that name Trustee Rawlings state that service was effectuated by “conspicuous place service” at the apartment in dispute, which Trustee Rawlings stated that he had vacated before the commencement of the action
- Although Trustee Rawlings is named variously as “Occupant” and “Respondent” in the several court pleadings and orders, and the file contains a demand for rent that names Trustee Rawlings, only Tiffany Rawlings is named as “tenant”, and a Notice to Tenant for Nonpayment is addressed only to Tiffany Rawlings
- The July 10, 2023 Order and Warrant of Eviction was mailed by the Town Court to Tiffany Rawlings and the WHA attorney, but not to Emmanuel Rawlings. The order contains the handwritten endorsement reprinted above, to the effect that Trustee Rawlings was represented as no longer occupying the apartment.

Findings of the Board

The Ethics Board replies as follows to the questions presented by Mayor Torres:

1. Is Trustee Rawlings’ continued participation in the developer selection process while, potentially owing one of the proposal respondents money give the reasonable appearance of impropriety (Section 21-4 (C)(1)?

Answer: The Ethics Board found, based on its review of the court file and public records, and representations made by counsel to the WHA, that Trustee Rawlings does not owe money to the WHA. However, because the WHA brought a Petition of Nonpayment against Trustee Rawlings’s mother, and obtained an order of eviction, his participation in the selection process for a developer, in which the WHA is a candidate, would create an appearance of impropriety under Code of Ethics section 21- 4 C (1).

2. If the debt is still outstanding and/or Westhab/Washingtonville Housing Alliance chose not to enforce the court ordered judgment, would this be seen as an attempt to gain favor from Trustee Rawlings to support their project. (Section 21-4 (A)?)

Answer: There is no court ordered judgment against Trustee Rawlings or debt outstanding associated with the Petition for Nonpayment brought by the WHA against Trustee Rawlings or Tiffany Rawlings.

3. Could it be inferred that a lack of enforcement of the judgment be considered an improper "gift" under Section 21-4 (D) (2)?

Answer: The Ethics Board has no need to address this question, based on the findings made in this opinion.

4. It appears that Sections 21-4 (G) - Misuse of authority and 21-4 (H) - Misuse of Privilege, could also be considered an issue if Trustee Rawlings were to proceed with voting.

Answer: The Ethics Board has no need to address this question, based on the findings made in this opinion. The board's reasons for requiring recusal are sufficient to respond to the request for an Advisory Opinion.

The board's opinion is focused solely on whether Trustee Rawlings may participate in the Hunter tier matter before the Board of Trustees. There is no need to make findings of fact as to when, or whether or not Trustee Rawlings resided at the apartment which was the subject of the petition. The fact that a legal action was brought against the trustee's mother, resulting in an order of eviction, is sufficient to make it all but impossible, however honestly and persuasively a contrary argument may be made, to avoid the appearance of a conflict of interest, or the legal challenges that likely would be brought, were the trustee not to recuse. Further, since no release was found in the record of the court file, the WHA presumably could still bring an action for repayment of rent against Ms. Rawlings.

The board notes further that no pleading in the court file alleged that Trustee Rawlings was a lessee of the apartment, or that he was named in the action other than because he was believed to be an occupant of the apartment. An order of eviction would be applicable to any person occupying a property to be repossessed. The disposition of the case was a repossession of the apartment by the petitioner and an eviction of the tenant, with a handwritten notation entered by the court that Trustee Rawlings was represented to not reside in the apartment. The file does not contain a money judgment against any person, or an indication of any pending proceeding. All of this information is contained in the public record, and could have been obtained by inquiry of the public record or of counsel to the WHA.

Village of Mamaroneck Ethics Board

Daniel E. Karson – Chair
Chari Topol Allison
Susan Berenzweig

Ethics Board members Maria DeRose and Lauren Perone Jones took no part in the vote on the opinion rendered in this matter.

Appendix

Village of Mamaroneck Ethics Board

To: Trustee Emmanuel Rawlings Questions Regarding Advisory Opinion 2024 Village

In responding to the following questions, please provide detailed answers where specific information is requested.

1. What association, if any, do you have with the Washingtonville Housing Alliance (“WHA”)? **I have no association with Washingtonville Housing Alliance.**
2. What association, if any, do you have with Westhab? **I have no association personally with Westhab.**
3. Are you an officer, director, employee of, or volunteer with either organization? **I am not an officer, director, employee of, or volunteer with either organization.**
4. Have you ever provided services to either organization for which you were compensated by the payment of money or other benefits? **No.**
5. Do you receive compensation or benefits of any kind from either organization? **I do not receive any form of compensation or benefits from either organization?**
6. Have you taken part in any discussions or attended any meetings of either organization regarding the proposed Hunter tier Lot development, or affordable housing in general in the Village of Mamaroneck? **No.**
7. Are you currently serving as an advisor, consultant or in any other capacity with either organization or any organization, other than the Board of Trustees, regarding the Hunter tier lot development? **No.**
8. Aside from your position as a trustee for the Village of Mamaroneck, what is your professional occupation? **I am an Operations Manager for a Non-Profit.**
9. Regarding the matter entitled “Petition for Nonpayment” filed by the WHA, in which you are named as respondent:
What is the status of the matter? **I am unsure of the status of this matter, as this notice was not delivered to me.**
Was a judgment entered against you? **From my understanding a judgement was not entered against me.** If so, what is the status of the judgment or the petition?
10. Are you a party to any other publicly filed legal action or proceeding involving the WHA or Westhab, or any other party? **No.**
12. Have you taken part in any discussions, conversations or communications of any kind with The WHA or Westhab regarding the Hunter Tier lot development? **No.**