

## Is Yorktown's Ethics Law Too Intrusive?

When it comes to ethics, is Yorktown moving forwards or backwards?

Two years ago, the prior Town Board strengthened the town's Ethics Law, appointed a new Ethics Board, and adopted a new, more substantive, annual financial disclosure form.

Today, when reports of ethical lapses of government officials are sadly becoming more and more frequent, some members of the Yorktown Town Board are suggesting that the town's Ethics Law is too strong and should be watered down.

The goal of an ethics law is simple: to protect the taxpayers' money by setting standards for what constitutes a conflict of interest between an official's public duties and his private interests and guarding against cronyism.

For example:

- Will a Town Board member benefit from an action the Board is considering?
- Does a Zoning Board member own property that will be impacted by an application before the Board?
- Does a Planning Board member have a business relationship with a member of an applicant's development team?
- Does a town official, or the official's spouse, have a financial relationship with a company being considered for a town contract?

An integral part of any ethics law is the requirement that certain key town officials and employees file an annual financial disclosure form. The form's purpose is equally simple: to identify potential violations of the ethics law — *before they occur*.

And it's Yorktown's annual financial disclosure form that has become the current source of controversy. (On June 4, the Town Board belatedly voted to automatically suspend four unnamed officials if they didn't submit their 2012 forms within 21 days. The forms were originally due May 15, [2012](#))

According to Supervisor Grace, the disclosure form, as it currently exists, is both counterproductive and intrusive. It's counterproductive because talented members of our community will not volunteer to serve the town if they have to disclose information about their personal finances. And worse, if someone declines to submit the form, his reputation will be "besmirched." The Supervisor hasn't specified exactly what on the form he considers intrusive.

The Supervisor also said he has asked the newest member of the Ethics Board (whom his administration appointed) to look into possible revisions of the law.

To better understand the current debate over the disclosure form, it's important to know:

- who is required to submit the form, and
- what information the form asks for — and doesn't ask for.

**Who is required to submit the disclosure form?**

The Ethics Law requires all elected officials, department heads, and the members of certain volunteer boards, such as the Planning and Zoning Boards, to submit an annual disclosure form — basically, any town official who makes decisions that have financial implications or set policy.

### **What information does the disclosure form ask for?**

By definition, any form that asks an official to disclose any information can be considered “intrusive.” The issue then becomes: what information is needed to identify potential violations of the ethics law?

The current Yorktown disclosure form was developed in 2011 after an extensive review of the previous form, other municipal forms, a model form prepared by the NYS Bar Association — and with input from the Yorktown officials who are required to fill out the form.

The form asks for information in eight broad categories, and within each category, *it asks only for information that might reveal a potential significant conflict of interest*. For example, the form asks:

- Do you or your spouse receive more than \$5,000 a year as either employees or part owners of any business that has had, or plans to have business dealings with the town within the past 24 months or future 24 months?
- Do you or certain family members own property in Yorktown, or within one mile of the Yorktown border?
- Have you or your spouse received any gifts valued at more than \$75 from someone who does business with the town, e.g., free tickets to a ball game or a service provided at no charge?
- Do you or your spouse owe more than \$10,000 to a local business?
- Does a local business owe you or your spouse more than \$10,000?

The form specifically instructs officials that they DO NOT have to provide the following information:

- The names of clients or customers if they or their spouse have a business or maintain a professional practice.
- Gifts from individuals or businesses that have no dealings with the town.
- Information about their mortgage, bank loans, credit card revolving lines, or stock holdings in publicly traded companies.
- Financial Information about their adult children.
- The dollar value of business interests, investments or debts.

In addition to the eight specific questions, the disclosure form includes an important ninth catch-all “transactional disclosure” statement: the official acknowledges that whenever a matter requiring the exercise of discretion comes before the official, and the disposition of the matter could result in a direct or indirect financial or material benefit for the official or a family member, the official will disclose the nature of the interest in writing when he first becomes aware of it.

When discussing ethics laws, it’s important to keep in mind that neither an ethics law nor a financial disclosure form will prevent a town official from using his office for personal gain. Ethics laws do not regulate behavior in the sense of a person doing right or wrong, good or evil. Ethics laws only set out standards by which an official’s conduct can be measured. In the end, ethical behavior is up to the individual and his own moral compass.

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