

## **New York City Conflicts of Interest Board**

### **Notice of Adoption of Final Rules**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD by Sections 192(b), 1043, and 2603(a) of the New York City Charter, that the Conflicts of Interest Board has amended Board Rules Section 1-09 governing City Planning Commissioners.

The proposed Rule was published in the City Record on June 18, 2020, and a public hearing was held on July 20, 2020. After consideration of the testimony received, the Conflicts of Interest Board now adopts the following Rule.

### **Statement of Basis and Purpose**

The City Planning Commission (the “Commission”) is comprised of thirteen members, including a Chair who serves as a regular employee of the City. Pursuant to City Charter § 192(b), Commission members are prohibited from appearing, directly or indirectly, before the Commission, the Department of City Planning, “or any other city agency for which the conflicts of interest board shall, by rule, determine such appearance creates a conflict of interest with the duties and responsibilities of the member.” Pursuant to City Charter § 192(b), the Board adopted Board Rules § 1-09 in 1992 to identify the City agencies before which a Commission member’s appearance would pose a conflict. The Board notes, in accordance with City Charter § 2603(c)(4), that two advisory opinions, A.O. Nos. 1993-32 and 2007-2, are straightforward applications of Board Rules § 1-09, requiring no codification as a rule.

The Board now updates and clarifies the rule. The amendments:

- (1) remove the definitional sections contained in Board Rules § 1-09(a), which are not unique to the Commission: City Charter § 2601(4) (“Appear”), § 2601(15) (“Ministerial”), and § 2604(b)(6) (“Indirect Appearance”);
- (2) organize the prohibitions into a more user-friendly format; and
- (3) update the agency names that have been changed in the intervening years.

The agency names are deleted or revised as follows:

- The reference to the Mayor's Office of Planning and Coordination has been deleted, as such office has ceased to exist.
- The Art Commission has been designated, by Executive Order No. 119 of 2008, as the Public Design Commission. Because the Art Commission remains part of the City Charter, both names are included.
- The Department of Business Services has become the Department of Small Business Services (Local Law 34 of 2002).
- The Economic Development Corporation, originally formed as a local development corporation, was incorporated as a not-for-profit corporation in 2012 but, as a City agency within the meaning of Charter Section 2601(2), has been named explicitly.
- Reference to local development corporations that contract with the Department of Small Business Services has been clarified to include business improvement districts.
- Reference to the Hardship Appeals Panel has been deleted for two reasons: first, no person has been appointed to serve on the Hardship Appeals Panel since its creation (Local Law 70 of 1991) as § 3021 of City Charter Chapter 74. Second, because the Hardship Appeals Panel is part of the same Charter chapter establishing the New York City Landmarks Preservation Commission, the proposed Board Rules § 1-09(a)(7) already prohibits any appearances before the Hardship Appeals Panel.

New material is underlined.

**Section 1.** Section 1-09 of Chapter 1 of Title 53 of the Rules of the City of New York is REPEALED and a new Section 1-09 is added to read as follows:

**§1-09 Prohibited Appearances by City Planning Commissioners Before City Agencies.**

(a) For the purposes of Charter Section 192(b), no member of the City Planning Commission shall appear, within the meaning of Charter Section 2601(4), directly or indirectly on any matter before:

- (1) the Mayor, Deputy Mayor, and their staffs;
- (2) the Mayor's Office of Environmental Coordination;
- (3) the offices of the Borough Presidents;
- (4) the City Council, including any individual Council Members and their staffs;
- (5) Community Boards;
- (6) the Art Commission/Public Design Commission; and
- (7) the Landmarks Preservation Commission.

(b) For the purposes of Charter Section 192(b), no member of the Commission shall appear, within the meaning of Charter Section 2601(4), directly or indirectly on any matter involving zoning or land use before:

- (1) the Department of Buildings, provided that a member of the Commission shall not be barred from filing plans with the Department of Buildings or from making appearances related to the filing of such plans, except that appearances in reconsideration proceedings before a Borough Commissioner, the Commissioner, or a Deputy Commissioner of the Department of Buildings shall be prohibited;
- (2) the Board of Standards and Appeals;
- (3) the Department of Consumer Affairs;
- (4) the Economic Development Corporation; and

(5) the Department of Small Business Services and any local development corporation or business improvement district that has entered into a contract with the City to perform services on behalf of the Department of Small Business Services.

(c) For the purposes of Charter Section 192(b), no member of the Commission shall appear, within the meaning of Charter Section 2601(4), before any City agency with respect to planning, environmental, financial or other aspects of a matter that can reasonably be expected to come before the Commission for approval or other formal action, including, but not limited to, the acquisition or disposition of City-owned land; an application for a zoning change or special permit; action pursuant to the Uniform Land Use Review Procedure; or action on major concessions and franchises.