



STATE OF WISCONSIN **ETHICS BOARD**

James R. Morgan
Chairman
Paul M. Holzem
David L. McRoberts
Dorothy C. Johnson

On the capitol square at:
44 EAST MIFFLIN STREET, STE 601
MADISON, WISCONSIN 53703-2800
phone: 608/266-8123
fax: 608/264-9319
ethics@ethics.state.wi.us
<http://ethics.state.wi.us>

December 18, 2003

Roth Judd
Director

Rebecca Leighton Katers, Executive Director
Clean Water Action Council of Northeast Wisconsin, Inc.
East Port Center
1270 Main Street, Suite 120
Green Bay, WI 54302

Subject: **Senator Stepp**

Dear Ms. Katers:

The Ethics Board has reviewed your complaint of November 25, 2003 and follow-up letter of December 1, 2003 concerning Senator Cathy Stepp. You complain that Senator Stepp has a direct financial interest in proposed legislation (2003 Senate Bill 313 and 2003 Assembly Bill 655) of which she is a proponent.

We have looked into your complaint to determine if it identifies a conflict between the Senator's private business interests and her public responsibilities that the Ethics Board should address.

Our initial inquiry into your complaint indicates that neither Senator Stepp, her family, nor her family's business has a financial stake in the legislation proposed that should cause her not to participate in discussion, debate, and votes on the proposal.

You noted specifically the legislation's effect on the need for and the process for obtaining permits from the Department of Natural Resources for construction activities along the state's lakes, rivers, and streams. Chapter 30, *Wisconsin Statutes*, deals with these matters. The bills you have asked about would affect that chapter of the *Statutes*.

Senator Stepp's family owns a business that constructs custom homes for individuals who already own parcels of land on which they will build. She informs us that she is not a developer, does not build houses on speculation for later sale, does not build whole subdivisions, and does not seek permits to alter streams or

grade the banks of waterways. She builds houses. She builds houses for individuals and families, not for developers.

Senator Stepp has told us that neither she nor her family's business, First Stepp Builders, Inc., has ever applied for a permit under Chapter 30, *Wisconsin Statutes*. At the Ethics Board's request, the Department of Natural Resources has reviewed its computer records and confirms that neither Senator Stepp nor First Stepp Builders has ever applied for a Chapter 30 permit. We have also spoken to a lawyer in the Department of Natural Resources whose responsibilities include wetland and surface water permitting. He stated that the changes that the bills propose would not redound to the benefit of a homebuilder. He said that, although an individual owning property on a waterway could perhaps save money through a revised permitting process, the financial benefit would be speculative and conjectural.

By design, the people who make our state's laws are representative of the many interests present in our state. In many instances, they arrive at the capitol with a wealth of experiences that will shape their interests and activism. As long as they do not use their government positions to obtain special advantages for themselves and their families and businesses, they may retain those personal interests and freely participate in the lively discussion of policies in an animated legislature.

When it created the standards of conduct for government officials that the Ethics Board applies, the Legislature said this:

19.45 Standards of conduct; state public officials. (1) The legislature hereby reaffirms that a state public official holds his or her position as a public trust, and any effort to realize substantial personal gain through official conduct is a violation of that trust. This subchapter does not prevent any state public official from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her duties to this state. The legislature further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; that citizens who serve as state public officials retain their rights as citizens to interests of a personal or economic nature; that standards of ethical conduct for state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material; and that state public officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or

investments do not conflict with the specific provisions of this subchapter.

The Ethics Board has affirmed the observation that I communicated to you at the start of this month:

We fully expect that a farmer-legislator will act on legislation affecting agriculture, a physician-legislator will vote on matters affecting health, a lawyer-legislator will vote on court reform and tort reform; a taxpayer-legislator will act on tax provisions, and a business owner-legislator will participate in deliberations affecting business as long as the legislation does not affect the specific legislator in a manner or to a degree that is substantially different from the thousands or tens of thousands or hundreds of thousands of other farmers, physicians, lawyers, taxpayers or businesses affected by the legislation.

We welcome and appreciate the passion you bring in support of the intelligent stewardship of our state's lakes, streams, and waters. You too are an important part of this representative democracy. The effects of 2003 Senate Bill 313 and 2003 Assembly Bill 655 are likely to be significant. Your attention to the bills' consequences and your informing legislators, opinion leaders, and the public to the bill's effects should be welcome by everyone; however, your complaint that Senator Stepp should be barred from participation in the Legislature's consideration of these matters is not well-taken.

Our research into Senator Stepp's business and financial interests indicates to the Ethics Board that neither Senator Stepp, her family, nor her family's business has a financial stake in the proposed legislation that should cause her not to participate in discussion, debate, and votes on the proposal.

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cc: Senator Cathy Stepp