



STATE OF WISCONSIN
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January 15, 2004

Roth Judd
Director

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

Subject: **First Stepp Builders**

Dear Ms. Katers:

I acknowledge the Ethics Board's receipt of your letter dated December 31, 2003. You have appended information that refers to First Stepp Builders' interest in *developing* certain real estate.

Earlier I reported to you:

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.

Your review of the information that you have provided has led you to allege: [1] that Senator Stepp misled the Ethics Board and the public by indicating that her business merely builds houses and does not develop property and [2] that her business is likely to benefit by passage of the "Job Creation Act", 2003 Assembly Bill 655, and [3] that either the misrepresentation or activity in support of Assembly Bill 655, or both, violate statutes that the Ethics Board administers. I have considered each of these matters.

Truthfulness of statements.

I believe that in every respect Senator Stepp has been truthful and direct in her statements and explanations to the Ethics Board.

You have provided the Ethics Board with a statement prepared by Cathy Stepp in the year 2000 wherein she referred to her family's interest in developing some property in Racine County. I questioned the Senator about the document you furnished to the Ethics Board. She explained to me that during 2000 her family considered purchasing and developing some land in Racine County and decided against that course. The Stepps, the Senator told me, never offered to purchase the land. The land's owner has confirmed for me that neither the Stepps nor First Stepp Builders has ever offered to purchase the land that was the subject of Senator Stepp's letter.

I also spoke with the Racine County Executive, Bill McReynolds. He too told me that the Stepps had not developed land in Racine County and had not submitted any plan or indication to the county of their intention to do that.

Julie Anderson, Racine County's Director of Planning and Development, told me that she has been employed as a planner in Racine County's Department of Planning and Development since 1991 and is knowledgeable about real estate developers and developments in unincorporated areas of Racine County and that she did not know or recall any instance in which the Stepps or First Stepp Builders had been involved in the subdivision or development of land. She said that she has never had a meeting with the Stepps about land development and has never known the Stepp family to be real estate developers.

Legislation's effect upon First Stepp Builders.

My research into Senator Stepp's business and financial interests and into the effects of Assembly Bill 655, indicates 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.

The effects of Assembly Bill 655 are likely to be significant. There does seem to be, however, some dispute about just what those effects will be. In an effort to discern the bill's implication for First Stepp Builders, I have tried both to understand the nature of that company's business and to understand the manner in which Assembly Bill 655's passage would affect our state's laws.

You specifically noted 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 has explained that neither her family nor business has ever applied for a permit to alter shoreline property or any other permit issued by

Wisconsin's Department of Natural Resources under chapter 30 of the *Statutes*. I reported to you last month that the Ethics Board's inquiry to the Department of Natural Resources confirmed that the Department had no record of either Senator Stepp or First Stepp Builders' having applied for a permit under chapter 30.

The Ethics Board's staff has spoken with a lawyer employed by the Department of Natural Resources whose responsibilities include wetland and surface water permitting and with a senior staff attorney at the Legislative Council. I have reviewed Attorney General Lautenschlager comments on the bill and the "Wisconsin Wildlife Federation Report on the Reduction of Environmental Standards in the 'Jobs Creation Act of 2003'". I have also noted published accounts of Governor Doyle's assertion of his belief that the law does not violate the public trust doctrine of the constitution and does not erode environmental standards.

It is my understanding that, although the bill's effects will be to make it easier to undertake activities on property situated along waterways, it is unlikely that the bill's changes will increase the number of houses built or a builder's profit from building a house. A revised permitting process might save some money for a person owning property on a waterway, but even that result is uncertain and speculative.

The issues you have raised are essentially political in nature. Senator Stepp has identified herself as an advocate for changes to the processes for granting air and water permits. She may be a member of organizations that agree with her views. Whether a legislator is widely recognized as an advocate of environmental causes, universal healthcare, business interests, privacy interests, tort reform, or any number of causes, it is normal and expected that the legislator belong to organizations that advocate policies that the legislator also favors.

Every legislator brings to the Legislature a philosophy, life experience, and constituency. That is what representative democracy is about. Good public policy requires that an elected representative participate fully in the issues before the official unless the official has a discernable and significant financial interest in the matter unlike the interest of the general public. The indications to date are that Senator Stepp has neither a discernable financial interest nor financial stake in the Legislature's action on Assembly Bill 655 that would cause her to withdraw from its consideration.

Sincerely,

Roth Judd
Director

Copy: Senator Stepp