

1980-1981 Ky. Op. Atty. Gen. 2-151, Ky. OAG 80-198, 1980 WL 103015 (Ky.A.G.)

*1 Office of the Attorney General
Commonwealth of Kentucky

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March 21, 1980

Ms. Ella Jane Hall
Chairperson
Board of Trustees
City of Wheelwright
P. O. Box 103
Wheelwright, Kentucky 41669

Dear Ms. Hall:

This is in response to your letter of March 17 in which you raise the question as to whether or not a conflict of interest would exist if the daughter or sister of the chairperson of the board entered into a rental contract for the use of a recreational room in a municipal building adjacent to a swimming pool.

We will first assume the room is not needed for a public municipal purpose. If this is the case, [KRS 61.280](#) prohibits an officer of a city of the sixth class from being interested directly or indirectly in any contract with the city of which he is an officer. However, the interest of the officer which will render void such a contract must be present, personal and pecuniary and, consequently, contracts between the city and a relative of such officer have generally been sustained. See [McQuillin, Mun. Corps., Vol. 10, § 29.971](#). In this respect you will note the case of [Commonwealth v. Withers, 266 Ky. 29, 98 S.W. 2d 24 \(1936\)](#), wherein it is pointed out that in general the disqualifying interest of the municipal officer must be pecuniary or proprietary by which he personally stands to gain or lose something.

Reference is also made to the case of [Chadwell v. Commonwealth, 288 Ky. 644, 157 S.W. 2d 280 \(1941\)](#), involving the question of a possible conflict of interest where the son and daughter of a school board member were employed by the board. The court held that the school board member was not disqualified by reason of the employment contract since the interest referred to in the statutes was intended to be confined to a monetary consideration and not include merely an emotional interest that a member of the board might have in the member rendering the service.

On the other hand, the chairperson would, we believe, have to refrain from participating and voting on the granting of the rental contract because such action would be considered as against public policy. See [City of Springfield v. Haydon](#), 216 Ky. 483, 288 S.W. 337 (1926). Also, the chairperson could not participate directly or indirectly in the granting of such a contract by the city involving a member of his immediate family in view of [KRS 45A.455](#) pertaining to the Model Procurement Act. See in addition [KRS 45A.030\(10\)](#).

Yours very truly,
Steven L. Beshear
Attorney General

By: Walter C. Herdman
Assistant Deputy Attorney General

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