



OHIO ETHICS COMMISSION

8 East Long Street, Suite 1200

Columbus, Ohio 43215-2940

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May 13, 1996

Informal Opinion 1996-INF-0513-1

Mr. Ronald T. Keller, Executive Director
Capitol Square Review and Advisory Board
The Statehouse
Columbus, Ohio 43215

Dear Mr. Keller:

I am writing in response to your letter inquiring whether the Capitol Square Review and Advisory Board (CSRAB) members or the Executive Director are required to file annual financial disclosure statements pursuant to R.C. 102.02. In accordance with R.C. 102.02(B) and OAC 102-5-01 and 102-5-02, you and the CSRAB members are requested to file annual financial disclosure statements on or before August 7, 1996.

Pursuant to OAC 102-5-01 and 102-5-02, the Ethics Commission may find that the members and chief administrative officers (*e.g.* Executive Director, Executive Secretary, General Manager, President, Administrator or other chief administrative officers) of various statutorily created state boards, commissions, agencies, institutions, bureaus, councils and other instrumentalities of the State, hold positions which involve:

"... a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws, rules, and regulations of State, or the execution of other public trusts..."

and may therefore require such members and chief administrative officers to file annual financial disclosure statements.

In making the determination about any board's exercise of administrative discretion, the Ethics Commission analyzes the statutory and regulatory authority of each board on a case-by-case basis. In analyzing CSRAB, it is necessary to include an examination of the legislative history of CSRAB. This history includes another board, known as the State Underground Parking Commission.

In 1985, the Ethics Commission found that the members and chief administrative officer of the State Underground Parking Commission exercised a sufficient amount of administrative discretion, and required them to file annual financial disclosure statements. On July 1, 1993, the State Underground Parking Commission was abolished and CSRAB was created by Amended

Substitute Senate Bill 381. Am. Sub. S.B. 381 also transferred the State Underground Parking Commission's powers and duties to CSRAB.

R.C. 105.41(E) mandates that CSRAB shall:

1. Have sole authority to coordinate and approve any improvements, additions, and renovations that are made to the capitol square. The improvements shall include but not be limited to the placement of monuments and sculpture on the capitol grounds.
2. Operate the capitol square, and have sole authority to regulate all uses of the capitol square. The uses shall include but not be limited to the casual and recreational use of the capitol square.
3. Employ, fix the compensation of, and prescribe the duties of the executive director of the board and such other employees as the board considers necessary for the performance of its powers and duties;
4. Establish and maintain the capitol collection trust. The capitol collection trust shall consist of furniture, antiques, and other items of personal property that the board shall store in suitable facilities until they are ready to be placed in the capitol square.
5. Perform such repair, construction, contracting, purchasing, maintenance, supervisory, and operating activities as the board determines are necessary for the operation and maintenance of the capitol square.
6. Maintain and preserve the capitol square, in accordance with guidelines issued by the United States secretary of the interior for application of the secretary's standards for rehabilitation adopted in 36 C.F.R. part 67.

Additionally, R.C. 105.41(D) states that CSRAB may:

1. Employ or hire on a consulting basis professional, technical, and clerical employees as are necessary for the performance of its duties.
2. Hold public hearings at times and places as determined by the board.
3. Adopt, amend, or rescind rules necessary to accomplish the duties of the board as set forth in this section.

Finally, R.C. 105.41(F) grants the board authority to enter into agreements with the Ohio Building Authority to lease facilities, and apply fees, receipts, and revenues from the state underground parking garage to bond service charges to improve or finance capital facilities.

Based upon CSRAB's authority to: coordinate and approve any improvements, additions, or renovations to the capitol square; regulate all uses of the capitol square; establish and maintain the capitol collection trust; perform repair, construction, contracting, purchasing, maintenance, supervisory, and operating activities; hold public hearings; and enter into agreements with the Ohio Building Authority, the Ohio Ethics Commission finds that the members and chief administrative officer of CSRAB hold positions that meet the requirements of OAC 102-5-01 and 102-5-02. As such you and the CSRAB members are requested to file annual financial disclosure statements with the Ethics Commission.

As executive director of CSRAB, your filing will be public. All of CSRAB's members serve without compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties. Because they are uncompensated, CSRAB members' filings will be kept confidential as required by law. However, where CSRAB members serve in other public filing capacities, such as members of the General Assembly, their filing will be public. In addition, these persons need only file one annual financial disclosure statement with the appropriate ethics commission.

Based upon the review and approval of this request by the Ohio Ethics Commission at its May 9, 1996 meeting, you and the CSRAB members will be requested to file your financial disclosure statements for calendar year 1995 within 90 days of the Commission's decision, which is on or before August 7, 1996. In addition, the Ethics Commission will proceed to amend the list of agencies required to file annual financial disclosure statements under OAC 102-5-02.

If you have any questions regarding the proper way to complete a financial disclosure statement, please contact Cathey Baisden, Financial Disclosure Analyst, for assistance.

Sincerely,

A handwritten signature in cursive script that reads "Sharon A. Mull". The signature is written in dark ink and is positioned above the typed name.

Sharon A. Mull
Staff Attorney