December 10, 2012

The Honorable John D. Ferrero
Stark County Prosecuting Attorney
110 Central Plaza South, Suite 510
Canton, Ohio 44702

SYLLABUS: 2012-041

1. A person may serve as chief deputy county treasurer and secretary of a county land reutilization corporation, provided that as chief deputy county treasurer he does not make determinations regarding funding of a county land reutilization corporation from the county treasurer's delinquent tax and assessment collection fund and is not required to keep an accounting record of the moneys in the county treasury that have been appropriated and paid to the county land reutilization corporation or to disburse moneys appropriated to the corporation.

2. A person may not serve simultaneously as county treasurer and executive director of a county land reutilization corporation.

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December 10, 2012

OPINION NO. 2012-041

The Honorable John D. Ferrero
Stark County Prosecuting Attorney
110 Central Plaza South, Suite 510
Canton, Ohio 44702

Dear Prosecutor Ferrero:

You have requested an opinion regarding the following:[1]

1. May a chief deputy county treasurer serve simultaneously as secretary of a county land reutilization corporation?

2. May a county treasurer serve simultaneously as executive director of a county land reutilization corporation?[2]

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[1] Your letter requesting a formal opinion of the Attorney General sets forth a series of 29 questions about various legal issues related to the Stark County Land Reutilization Corporation (SCLRC), including, for example, compatibility of positions, competitive bidding, contracting authority, leave benefits, and immunity and indemnification. In this opinion, we consider only the compatibility questions set forth above. Your other compatibility questions are addressed in a separate opinion, 2012 Op. Att'y Gen. No. 2012-040. Your remaining questions will be addressed in a separate opinion to be issued at a later date.

[2] You ask whether the county treasurer may serve as the "executive officer" of the SCLRC. No provision in R.C. Chapter 1724 or in the Code of Regulations adopted by the SCLRC refers to an "executive officer." R.C. 1724.02(L) authorizes a county land reutilization corporation to employ an "executive director" to "manage the operations" of the county land reutilization corporation. Similarly, in your situation, the SCLRC has adopted a Code of Regulations for the government of the corporation, the conduct of its affairs, and the management of its property that authorizes the corporation to employ an "executive director." *See* R.C. 1724.03(A). Section 1.4.m. (setting forth the purposes and powers of the corporation) and Section 3.2 (setting forth the authority and duties of the corporation's directors) authorize the SCLRC to employ an "executive director" to "manage the daily operations" of the corporation. In this opinion, therefore, we will use the statutory term "executive director."

Your questions concern the Stark County Land Reutilization Corporation (SCLRC), a nonprofit corporation formed under R.C. 1724.04. Stark County designated the SCLRC pursuant to R.C. 1724.10 as the exclusive county agency for reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property in Stark County. Pursuant to R.C. 1724.03, the SCLRC's board of directors currently consists of five members: the county treasurer, two county commissioners, a representative of the largest municipal corporation located in the county, and a representative of a township with a population of at least 10,000 in the unincorporated area of the township. The officers of the corporation include a president, secretary, treasurer, and one or more vice presidents. The SCLRC has no employees. It is anticipated that the SCLRC will receive most of its operating moneys from the county's delinquent tax and assessment collection funds. The SCLRC also plans to seek out federal, state, local, and private grant funding.

In order to answer your questions, it is helpful to review the organization and operation of a county land reutilization corporation. R.C. Chapter 1724 governs community improvement corporations, including economic development corporations and county land reutilization corporations.[3] *See* R.C. 1724.01(A)(1); 2012 Op. Att'y Gen. No. 2012-026, at 2-223 to 2-224. Community improvement corporations, including county land reutilization corporations, are nonprofit corporations and are subject to the general nonprofit corporation provisions of R.C. Chapter 1702, to the extent that those provisions are not inconsistent with R.C. Chapter 1724. *See* R.C. 1724.01(B); R.C. 1724.04; R.C. 1724.08; 2009 Op. Att'y Gen. No. 2009-005, at 2-22 n.2; 2006 Op. Att'y Gen. No. 2006-037, at 2-340 to 2-341.

A county land reutilization corporation may be organized for purposes related to returning vacant, abandoned, and foreclosed properties to productive use. Specifically, R.C. 1724.01(B)(2) states that a county land reutilization corporation may be formed for the purposes of:

> (a) Facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property within the county for whose benefit the corporation is being organized, but not limited to the purposes described in [R.C. 1724.01(B)(2)];
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> (b) Efficiently holding and managing vacant, abandoned, or tax-foreclosed real property pending its reclamation, rehabilitation, and reutilization;
>
> (c) Assisting governmental entities and other nonprofit or for-profit persons to assemble, clear, and clear the title of property described in this division in a coordinated manner; or
>
> (d) Promoting economic and housing development in the county or region.

A county with a population of more than 60,000 that elects to adopt and implement the procedures set forth in R.C. 5722.02-.15 may organize a county land reutilization corporation. R.C.

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[3] County land reutilization corporations are commonly referred to as county land banks. 2012 Op. Att'y Gen. No. 2012-026, at 2-223 n.1.

1724.04; R.C. 5722.02. *See* 2012 Op. Att'y Gen. No. 2012-026, at 2-223. The procedures set forth in R.C. 5722.02-.15 are intended to facilitate the reutilization of nonproductive land situated within the county. R.C. 5722.02(A). A county also may designate the county land reutilization corporation as the agency of the county for the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property in the county. R.C. 1724.10.

The composition of the board of directors of a county land reutilization corporation is set forth in R.C. 1724.03(B). The board of directors must consist of five, seven, or nine members. R.C. 1724.03(B). The board members must include the county treasurer, at least two members of the board of county commissioners, one representative of the largest municipal corporation located in the county, and one representative of a township with a population of at least 10,000 in the unincorporated areas of the township if at least two such townships exist in the county. *Id.* Other members of the board of directors may be selected by the county treasurer and the county commissioners who serve on the board. *Id.*

The powers of a county land reutilization corporation are set forth in R.C. 1724.02. A county land reutilization corporation is authorized, for example, to borrow money for certain purposes, to make loans, to obtain and dispose of real and personal property, to engage in code enforcement and nuisance abatement, and to exercise powers enumerated in R.C. Chapter 5722 (land reutilization programs) on behalf of the county. R.C. 1724.02. Additionally, a county land reutilization corporation may employ and compensate an executive director to "manage the operations of a county land reutilization corporation." R.C. 1724.02(L).

A county land reutilization corporation may receive operating moneys from the county treasurer's delinquent tax and assessment collection (DETAC) fund. In each county, R.C. 321.261(A) requires the creation of the treasurer's DETAC fund and the prosecuting attorney's DETAC fund within the county treasury. Two and one-half percent of all delinquent real property, personal property, and manufactured and mobile home taxes and assessments collected by the county treasurer is deposited in the treasurer's DETAC fund. R.C. 321.261(A). An additional two and one-half percent of such delinquent taxes and assessments is deposited into the prosecuting attorney's DETAC fund. *Id.*

Under R.C. 321.261(A)(2), the county treasurer may allocate money from the treasurer's DETAC fund to support the county land reutilization corporation. R.C. 321.261(B) provides for additional funding for a county land reutilization corporation:

> During the period of time that a county land reutilization corporation is functioning as such on behalf of a county, the board of county commissioners, upon the request of the county treasurer, may designate by resolution that an additional amount, not exceeding five per cent of all collections of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, shall be deposited in the treasurer's delinquent tax and assessment collection fund and be available for appropriation by the board for the use of the corporation. Any such amounts so deposited and appropriated under this division shall be paid out of the

treasurer's delinquent tax and assessment collection fund to the corporation upon a warrant of the county auditor.

Compatibility Test

The following five questions are used to determine whether a person may hold a public position and private position concurrently:[4]

1. Is the public position a classified employment within the terms of R.C. 124.57?

2. Does a constitutional provision or statute prohibit a person from serving in both positions at the same time?

3. Is there an impermissible conflict of interest between the two positions?

4. Are there local charter provisions, resolutions, or ordinances that are controlling?

5. Is there a federal, state, or local departmental regulation applicable?

2009 Op. Att'y Gen. No. 2009-005, at 2-22 to 2-23.

Subject to Certain Restrictions, a Chief Deputy County Treasurer May Serve Simultaneously as Secretary of a County Land Reutilization Corporation

We first address whether a chief deputy county treasurer may serve as the secretary of a county land reutilization corporation. As noted in your letter, a chief deputy county treasurer owes a fiduciary duty to the county treasurer. A chief deputy county treasurer is appointed by and directly responsible to the county treasurer and may perform any duties that the county treasurer is required to perform. R.C. 321.04 (authorizing county treasurer to appoint one or more deputies); R.C. 3.06 ("[a] deputy, when duly qualified, may perform any duties of his principal. A deputy or clerk, appointed in

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[4] As noted previously, a county land reutilization corporation is organized as a nonprofit corporation. Pursuant to R.C. 1724.10(B)(1), service as a board member of a county land reutilization corporation is not a public office or employment. *See also* 2012 Op. Att'y Gen. No. 2012-040, slip op. at 4-5. Additionally, prior opinions have concluded that a community improvement corporation is not a political subdivision and have recognized that such corporations are organized as private, nonprofit corporations. *See* 1987 Op. Att'y Gen. No. 87-024, at 2-163. Therefore, it is appropriate to conclude that a person serving as a member of the board of directors of a county land reutilization corporation or as an officer of such a corporation does not hold a public office or employment for the purpose of determining the compatibility of two positions. *See* R.C. 1702.04; R.C. 1724.01; R.C. 1724.08; 2009 Op. Att'y Gen. No. 2009-005, at 2-22 to 2-23 n.2.

pursuance of law, holds the appointment only during the pleasure of the officer appointing him"). The duties of a chief deputy treasurer involve a high degree of trust, confidence, reliance, integrity, and fidelity as well as the exercise of sound discretion and mature judgment. These duties have been recognized as the types of duties that create a fiduciary relationship. *See, e.g.*, 2009 Op. Att'y Gen. No. 2009-037, at 2-281; 1994 Op. Att'y Gen. No. 94-087, at 2-429; 1979 Op. Att'y Gen. No. 79-111, at 2-368 to 2-369.

The first question of the compatibility test asks whether the public position is a classified employment within the terms of R.C. 124.57, which prohibits an officer or employee in the classified service of a county from holding a public office that is normally filled by partisan election. A chief deputy county treasurer is in the unclassified service of the county. *See* R.C. 124.11(A)(9) (the unclassified service includes "those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials"); R.C. 124.11(A)(28) (the unclassified service for counties includes "the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals"); R.C. 3.06; R.C. 321.04; 2004 Op. Att'y Gen. No. 2004-019, at 2-155. The prohibition of R.C. 124.57, therefore, does not apply to the position of chief deputy county treasurer and so does not prohibit a chief deputy county treasurer from serving as secretary of a county land reutilization corporation.

The second question asks whether a constitutional provision or statute prohibits a person from serving in both positions at the same time. No constitutional provision or statute prohibits a person from serving simultaneously as chief deputy county treasurer and secretary of a county land reutilization corporation. Similarly, the fourth and fifth questions ask about the applicability of charter provisions, resolutions, or ordinances, and federal, state, and local regulations. No federal or state regulation prohibits a person from serving in these positions. Whether an applicable charter provision, resolution, ordinance, or departmental regulation bars a person from holding these two positions at the same time is a question for local officials to answer. *See* 2004 Op. Att'y Gen. No. 2004-019, at 2-154. For the purpose of this opinion, it is assumed that no local charter provision, resolution, ordinance, or departmental regulation bars a person from serving simultaneously as a chief deputy county treasurer and secretary of a county land reutilization corporation.

Finally, question three asks whether there are impermissible conflicts of interest between the two positions. Conflicts of interest occur when a person who holds two positions at the same time is subject to divided loyalties, conflicting duties, or the temptation to act other than in the public's best interest. 2004 Op. Att'y Gen. No. 2004-019, at 2-158. We first review the powers, duties, and responsibilities of the positions to determine whether there is a potential conflict of interest. If potential conflicts may be sufficiently avoided or mitigated, a person may serve in the positions simultaneously. *See id.* at 2-158 to 2-159. The factors considered in making this determination include the probability of the conflicts arising, the ability of the person to remove himself from any conflicts that may arise, whether the person exercises decision-making authority in each position, and whether the conflicts relate to the primary functions of each position or to financial or budgetary matters. *Id.*

The duties and responsibilities of a chief deputy county treasurer are assigned by the county treasurer. *See* R.C. 3.06; R.C. 321.04; R.C. 325.17; 2004 Op. Att'y Gen. No. 2004-019, at 2-159. As explained in 2004 Op. Att'y Gen. No. 2004-019, at 2-159, the general duties and responsibilities of a chief deputy county treasurer may include keeping accounts of all moneys received and disbursed by the treasurer, receiving taxes and assessments collected by the treasurer, and providing statements to the county auditor regarding the amount and crediting of taxes collected by the treasurer. *See, e.g.*, R.C. 321.07-.10; R.C. 323.12; R.C. 323.14-.15. Duties also may include redeeming warrants, depositing redeemed warrants with the county auditor, settling with the county auditor for all taxes and assessments that the treasurer has collected, accepting liquidated claims and certificates, and enforcing tax liens. *See, e.g.*, R.C. 321.16; R.C. 321.20; R.C. 321.24; R.C. 323.02; R.C. 323.25.

For this opinion, we have examined the duties of the secretary of the SCLRC. Consistent with the requirement set forth in R.C. 1724.03(A), the SCLRC has adopted a Code of Regulations for the government of the corporation, the conduct of its affairs, and the management of its property. According to section 6.3.3 of the SCLRC's Code of Regulations, which sets forth the authority and duties of the SCLRC's secretary, the secretary is responsible for, among other duties, keeping minutes of meetings and proceedings of the corporation, keeping other books as required by the president of the corporation, providing notice of meetings of the corporation, and performing any other duties assigned by the president.

A review of these duties and responsibilities discloses several potential conflicts of interest that a chief deputy county treasurer may confront when serving as secretary of a county land reutilization corporation.[5] First, a county land reutilization corporation may receive moneys from the county treasurer's DETAC fund. R.C. 321.261(A)(2), (B). R.C. 321.261(A)(2) authorizes the county treasurer to allocate DETAC fund moneys from the treasurer's DETAC fund to support the county land reutilization corporation. R.C. 321.261(B) further authorizes the county treasurer to request that the board of county commissioners designate by resolution that an additional amount, not to exceed five percent of all collections of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, be deposited into the treasurer's DETAC fund and be available for appropriation by the board of county commissioners to the county land reutilization corporation.

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[5] R.C. 1724.10(B)(1) authorizes a person to hold a public office and to serve simultaneously as a member of the governing board of a county land reutilization corporation even though conflicts of interest may exist between the two positions. *See also* 2012 Op. Att'y Gen. No. 2012-040, slip op. at 4-5. Your questions, however, do not ask whether a public officeholder may serve on the board of directors of a county land reutilization corporation. Rather, you ask whether a chief deputy county treasurer may serve simultaneously as the secretary of a county land reutilization corporation and whether a county treasurer may serve simultaneously as the executive director of such a corporation. The positions of secretary and executive director of a county land reutilization corporation are considered officers of the corporation and are not members of the board of directors. Consequently, the foregoing authorization of R.C. 1724.10(B)(1) does not apply in the case of a public officeholder who serves as secretary or executive director of a county land reutilization corporation.

R.C. 321.261(A)(2) gives the county treasurer sole discretion to determine whether to allocate any of his DETAC fund moneys to a county land reutilization corporation and the amount of any such allocation. R.C. 321.261(B) further gives the county treasurer sole discretion to request additional DETAC fund moneys for a county land reutilization corporation. If these duties are delegated by the county treasurer to the chief deputy county treasurer, the chief deputy county treasurer will be required to make determinations that affect the funding of the county land reutilization corporation for which he serves as secretary. In such a situation, the judgment of the chief deputy county treasurer may be improperly influenced. *See* 2004 Op. Att'y Gen. No. 2004-019, at 2-160 (judgment of chief deputy treasurer who also serves on county board of elections may be improperly influenced if he is required to serve on the county budget commission in place of the county treasurer and make determinations that affect the funding of the county board of elections).

This conflict of interest, however, may be avoided if the county treasurer does not require the chief deputy county treasurer to determine whether to allocate part of the county treasurer's DETAC funds to the county land reutilization corporation or the amount of any such allocation or to request additional funding from the board of county commissioners for the corporation. If this duty is not delegated to the chief deputy county treasurer, he will not be subject to this impermissible conflict. Whether the responsibilities of a chief deputy county treasurer include these particular duties is a question of fact that must be determined by local officials on a case-by-case basis. *See* 2004 Op. Att'y Gen. No. 2004-019, at 2-162. Accordingly, this conflict does not prevent a person from serving simultaneously as chief deputy county treasurer and secretary of a county land reutilization corporation so long as the chief deputy county treasurer does not make determinations regarding funding of a county land reutilization corporation from the county treasurer's DETAC fund.

An additional conflict may confront a chief deputy county treasurer while serving as secretary of a county land reutilization corporation. Because moneys may be paid from the county treasurer's DETAC fund within the county treasury to the county land reutilization corporation, a chief deputy county treasurer may be required to keep an accounting record of the moneys in the county treasury that have been appropriated and paid to a county land reutilization corporation. R.C. 321.07; *see also* R.C. 321.09-.10. Additionally, a chief deputy county treasurer may be required to disburse moneys appropriated to the county land reutilization corporation upon the presentation of a warrant issued by a county auditor. R.C. 319.16; R.C. 321.16; R.C. 321.261. If a chief deputy county treasurer who also serves as secretary of the county land reutilization corporation is required to disburse moneys to the county land reutilization corporation and keep an accounting of such disbursements, the chief deputy county treasurer could control the amount and availability of moneys appropriated to the county land reutilization corporation. In such a situation, a person's position as secretary of the county land reutilization corporation, and his loyalty to the corporation, may influence the performance of his duties as a chief deputy county treasurer and prevent him from discharging his duties for the county treasurer in a completely objective and disinterested manner. *See* 2004 Op. Att'y Gen. No. 2004-019, at 2-162 (person's position as member of a board of elections may influence the performance of his duties as chief deputy county treasurer). *See generally* 1989 Op. Att'y Gen. No. 89-022, at 2-106 ("when a public position requires an individual to conduct an objective investigation or review of another entity, a conflict arises when the individual holds a second position which creates a loyalty to that entity or a predisposition toward the outcome of the review or investigation"); 1981 Op. Att'y

Gen. No. 81-004 (city auditor may not serve as volunteer firefighter because loyalty to fire department creates conflict of interest with duty to objectively examine accounts of the fire department).

Again, however, this conflict of interest may be avoided if the chief deputy county treasurer is not responsible for making an accounting of DETAC fund moneys appropriated to the county land reutilization corporation or disbursing these moneys to the corporation. Local officials must determine whether the responsibilities of a chief deputy treasurer include these particular duties. 2004 Op. Att'y Gen. No. 2004-019, at 2-162. Accordingly, a person may serve simultaneously as chief deputy county treasurer and secretary of a county land reutilization corporation, provided that as chief deputy county treasurer he does not make determinations regarding funding of a county land reutilization corporation from the county treasurer's DETAC fund and is not involved with accounting for the moneys of the county land reutilization corporation or disbursing such moneys.

A County Treasurer May Not Serve Simultaneously as Executive Director of a County Land Reutilization Corporation

You next ask whether the county treasurer may serve simultaneously as executive director of a county land reutilization corporation. Under the compatibility test set forth above, two positions are incompatible if a person holding the positions is subject to impermissible conflicts of interest. *See* 2006 Op. Att'y Gen. No. 2006-034, at 2-309. An impermissible conflict of interest exists when the duties of each position subject a person who holds those positions simultaneously to divided loyalties, conflicting duties, or the temptation to act other than in the public's best interest. *Id*.

Whether an impermissible conflict of interest exists between multiple positions is determined by reviewing the powers, duties, and responsibilities of each position. *Id*. If the review discloses any conflicts of interest, we evaluate the immediacy of the each potential conflict to determine whether the conflict may be sufficiently avoided or eliminated so as to allow a person to serve in the positions simultaneously. *Id*. The factors considered in making this determination include the probability of the conflicts arising, the ability of the person to remove himself from any conflicts that may arise, whether the person exercises decision-making authority in each position, and whether the conflicts relate to the primary functions of each position or to financial or budgetary matters. *Id*.

We believe that the nature and character of the duties and responsibilities of a county treasurer and executive director of a county land reutilization corporation are such that a person holding these two positions at the same time will be faced with a number of conflicts of interest. The first conflict of interest arises from the discretion vested in the county treasurer to allocate funds to a county land reutilization corporation. As previously explained, a county land reutilization corporation may receive moneys for its operations from the county treasurer's DETAC fund. R.C. 321.261(A)(2), (B). Your letter indicates that in your particular situation, the SCLRC will receive a "significant portion" of its operating moneys from the county treasurer's DETAC fund. The county treasurer has sole discretion to determine whether to allocate any of his DETAC funds to a county land reutilization corporation and to determine the amount of any such allocation. *Id*. The county treasurer also has sole discretion to request additional DETAC funds from the board of county commissioners for the use of a county land reutilization corporation. R.C. 321.261(B). Accordingly, a county treasurer who serves as

executive director of a county land reutilization corporation is subject to a conflict of interest when he makes decisions that will affect the amount of money allocated to a county land reutilization corporation from the treasurer's DETAC fund. *See* 2006 Op. Att'y Gen. No. 2006-034, at 2-314 (chief deputy county treasurer who serves as a member of a city's legislative authority is subject to a conflict of interest "when he participates in matters that may affect the amount of money to be allocated to the city").

It will be difficult for a county treasurer who serves as executive director of a county land reutilization corporation to set aside his loyalty to the corporation when making determinations that affect the county land reutilization corporation's finances. Such a predisposition of loyalty could prevent a county treasurer from making completely objective and disinterested determinations in matters concerning an allocation of moneys to the county land reutilization corporation or result in preferential treatment being accorded to the corporation in the allocation of moneys from the treasurer's DETAC funds. *See* 2006 Op. Att'y Gen. No. 2006-034, at 2-314; 2002 Op. Att'y Gen. No. 2002-022, at 2-145 to 2-146 (because county commissioner, who is director of county children services board, has authority to determine whether to appropriate additional funds to the children services board, he "would not be able objectively to weigh the merits of such a determination").

A county treasurer may confront an additional conflict of interest while serving as executive director of the county land reutilization corporation because a county treasurer is responsible for keeping an accurate account of the moneys in the county treasury that have been appropriated to a county land reutilization corporation and for disbursing those moneys to the county land reutilization corporation. A county treasurer is required to keep an accounting record of the moneys in the county treasury that have been appropriated and paid to a county land reutilization corporation from the county treasurer's DETAC fund within the county treasury. R.C. 321.07; *see also* R.C. 321.09-.10. A county treasurer also is required to disburse moneys appropriated to the county land reutilization corporation upon the presentation of a warrant issued by a county auditor. R.C. 319.16; R.C. 321.16; R.C. 321.261. A county treasurer's service as executive director of the county land reutilization corporation may influence the performance of his duties as county treasurer and may prevent him from discharging his duties as county treasurer in a completely objective and disinterested manner. *See* 2004 Op. Att'y Gen. No. 2004-019, at 2-162.

In our view, these conflicts of interest cannot be sufficiently avoided or eliminated. Significantly, the conflicts relate to financial and budgetary matters. The conflicts also are not merely a remote possibility. A county treasurer has sole authority to determine whether to allocate moneys to a county land reutilization corporation and the amount of any such allocation. R.C. 321.261. And, in your situation, the SCLRC anticipates that a "significant portion" of its operating moneys will come from the county treasurer's DETAC fund. A county treasurer also must account for and disburse any moneys allocated from the treasurer's DETAC fund.

The conflicts also relate to a primary duty of a county treasurer. A county treasurer cannot remove himself from overseeing or participating in all matters related to moneys allocated and disbursed from the treasurer's DETAC fund insofar as he is responsible for either exercising or delegating this authority. This means that a county treasurer is directly or indirectly involved in all

decisions related to the allocation or disbursement of moneys from the DETAC fund to a county land reutilization corporation and therefore exerts his influence in those matters. *See generally* 2006 Op. Att'y Gen. No. 2006-023, at 2-207 (township police chief is directly or indirectly involved in all departmental matters or investigations and exerts his influence in all such matters or investigations).

When a conflict of interest relates to the primary duties of a public official, it is impractical for the public officer to abstain from all such matters. *See* 2004 Op. Att'y Gen. No. 2004-019, at 2-163 to 2-164. If a county treasurer must abstain from all matters related to the allocation of the funds in the treasurer's DETAC account, including his duties to determine the amount of any such allocation and to account for and disburse those funds, he may not be performing in a competent manner important duties that a county treasurer is required by law to perform.

Accordingly, the conflict of interest cannot be eliminated entirely or sufficiently avoided. We conclude, therefore, that the positions of county treasurer and executive director of a county land reutilization corporation are incompatible.[6]

Conclusions

Based on the foregoing, it is my opinion, and you are hereby advised as follows:

1. A person may serve as chief deputy county treasurer and secretary of a county land reutilization corporation, provided that as chief deputy county treasurer he does not make determinations regarding funding of a county land reutilization corporation from the county treasurer's delinquent tax and assessment collection fund and is not required to keep an accounting record of the moneys in the county treasury that have been appropriated and paid to the county land reutilization corporation or to disburse moneys appropriated to the corporation.

2. A person may not serve simultaneously as county treasurer and executive director of a county land reutilization corporation.

Very respectfully yours,

MICHAEL DEWINE
Ohio Attorney General

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[6] Your letter also asks several other questions related to a county treasurer serving simultaneously as the executive director of a county land reutilization corporation (including the questions enumerated in your letter as 6.a.-6.g. and question 3.b.). Because we have concluded that a county treasurer may not serve simultaneously as executive director of a county land reutilization corporation, we do not need to address those questions.