

Mr. Louis J. Grasmick, Peters Lumber Co., Inc. (continued)

of the Civic Center, a project of the Commission of which you are a member.

The type of transaction that you have in mind is, of course, with the general contractor or a subcontractor. It is not contemplated that your company would enter into any contract, express or implied, with the City and, hence, it seems to me that the legal question to be determined is whether, by making sales to the general contractor or a subcontractor, it might be said that you, as the principal executive officer and a director of your company, would be "interested" in a contract with the City within the meaning of Section 5 of Article XI of the State Constitution, or whether you would be "engaged or concerned" "indirectly" in any contract for work done or to be done on account of the City within the meaning of Section 9 of Article 1 of the Baltimore City Code.

An inquiry almost identical to your own was made and considered by this office some forty-two years ago. Governor Ritchie, when Assistant City Solicitor, rendered an opinion in 1908 (9 Opinions of the City Solicitor 2602), advising that a member of the Harbor Board, an unpaid officer, could not legally lease tugs and barges to a contractor who was doing work for the City. Governor Ritchie based his opinion upon the provisions of Section 5 of Article XI of the Maryland Constitution, and stated that the contemplated transaction was within the "substance and spirit" of the prohibition contained therein. In 1947, Judge Sobeloff, when City Solicitor, rendered an opinion that an automobile agency, doing business in corporate form, of which the principal stockholder and president was the President of the City Council, could not legally engage in repairs of certain city vehicles. The situation considered by Judge Sobeloff is quite different from that of your own, but Judge Sobeloff did quote with approval the earlier opinion of Governor Ritchie.

Ordinarily, I do not feel justified in treating opinions of my predecessors in office lightly. Only in a clear case do I feel justified in departing from views previously expressed.