

COMMONWEALTH OF MASSACHUSETTS  
STATE ETHICS COMMISSION

RECEIVED  
STATE ETHICS COMMISSION  
2018 FEB -7 AM 10:47

SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 18-0002

IN THE MATTER

OF

DENIS NADEAU

**DISPOSITION AGREEMENT**

The State Ethics Commission ("Commission") and Denis Nadeau ("Nadeau") enter into this Disposition Agreement pursuant to Section 3 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On October 21, 2015, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A.

On December 21, 2017, the Commission concluded its inquiry and found reasonable cause to believe that Nadeau violated G.L. c. 268A, § 19 and 23 (b)(3).

The Commission and Nadeau now agree to the following findings of fact and conclusions of law:

### ***Findings of Fact***

1. Nadeau, a resident of Amesbury, was during the relevant time the Amesbury Building Inspector. As such, Nadeau was a municipal employee as that term is defined in G.L. c. 268A, § 1.

2. During the relevant time, Nadeau owned and resided in a house in Amesbury.

3. During the relevant time, Lauren and Michael Provost ("the Provosts") owned and resided in a house in Amesbury, next door to Nadeau.

4. During the relevant time, Nadeau and the Provosts had a contentious relationship. Both parties contacted the police on numerous occasions regarding their disputes as neighbors.

5. On or about May 2014, a Comcast worker began to install a security camera pointed towards the Provosts' driveway.

6. On or about May 2014, Nadeau entered the Provosts' property and, in his role as Building Inspector, questioned the Comcast worker regarding whether the worker had a permit for the security camera.

7. Based on the Comcast worker's response to his questions, Nadeau, as Building Inspector, determined that the camera installation did not require a permit.

8. On or about October 2014, a landscaper began to plant trees on the Provosts' property.

9. On or about October 2014, Nadeau entered the Provosts' property and, in his role as Building Inspector, questioned the landscaper about the proposed plantings.

As Building Inspector, Nadeau ordered the landscaper to cease working until a Dig Safe inspection could be conducted. Nadeau, as Building Inspector, requested a Dig Safe inspection. The inspection found that the trees could be safely planted. The inspection delayed the landscaper's work by one to two hours.

### *Conclusions of Law*

#### Section 19

10. Except as otherwise permitted,<sup>1</sup> § 19 of G.L. c. 268A prohibits a municipal employee from participating<sup>2</sup> as such an employee in a particular matter<sup>3</sup> in which, to his knowledge, he or an immediate family member has a financial interest.<sup>4</sup>

11. Nadeau's determinations and decisions as Building Inspector on or about October 2014 concerning the installation of the trees on the Provost's property, including to enter the Provosts' property, to inquire about work being done on the property, to order the work stopped, to call for an inspection, and to order the work delayed until the inspection was completed, were particular matters.

---

<sup>1</sup> None of the exemptions to § 19 apply.

<sup>2</sup> "Participate" means to participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, § 1(j).

<sup>3</sup> "Particular matter" means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, § 1(k).

<sup>4</sup> "Financial interest" means any economic interest of a particular individual that is not shared with a substantial segment of the population of the municipality. See *Graham v. McGrail*, 370 Mass. 133 (1976). This definition has embraced private interests, no matter how small, which are direct, immediate or reasonably foreseeable. See *EC-COI-84-98*. The interest can be affected in either a positive or negative way. *EC-COI-84-96*.

12. Nadeau participated in these particular matters as Building Inspector by making these decisions and determinations and by carrying them out by entering the Provost's property and ordering the work stopped until inspected.

13. As the owner of property abutting the Provosts' property, Nadeau had a financial interest in these particular matters.

14. At the time of his participation, Nadeau knew that he had a financial interest in these particular matters.

15. Accordingly, by participating in these particular matters concerning the Provosts' installation of trees, Nadeau violated § 19.

Section 23(b)(3)

16. Section 23(b)(3) of G.L. c. 268A prohibits a municipal employee from, knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. The section further provides that it shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

17. By entering the Provosts' property and questioning the Comcast worker and the landscaper, Nadeau knowingly or with reason to know, acted in a manner which

would cause a reasonable person, having knowledge of all the relevant circumstances related to the animosity that existed between the Provosts and Nadeau, to conclude that Nadeau would be likely to act unfavorably toward the Provosts in the exercise of his official authority.

18. Nadeau did not file a disclosure sufficient to dispel this appearance of bias in his official actions.<sup>5</sup>

19. Accordingly, by his above-described actions Nadeau violated G.L. c. 268A, § 23(b)(3).

In view of the foregoing violations of G.L. c. 268A by Nadeau, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Nadeau:

- (1) that Nadeau pay to the Commonwealth of Massachusetts, with such payment to be delivered to the Commission, the sum of \$3,500.00 as a civil penalty for violating G.L. c. 268A, § 19; and
- (2) that Nadeau waive all rights to contest, in this or any other administrative or judicial proceeding to which the Commission is or may be a party, the findings of fact, conclusions of law and terms and conditions contained in this Agreement.

---

<sup>5</sup> Nadeau could have avoided violating § 23(b)(3) by making a written disclosure of the relevant facts to his appointing authority before participating in matters related to the Provosts.

By signing below, Nadeau acknowledges that he has personally read this Disposition Agreement, that it is a public document, and that he agrees to all of the terms and conditions therein.

STATE ETHICS COMMISSION

Denis Nadeau 2/1/18  
Date

David A. Wilson 4/9/18  
Date  
Executive Director