

COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 19-0003

IN THE MATTER

OF

STEPHEN COMTOIS

ORDER TO SHOW CAUSE

1. The State Ethics Commission (“Commission”) is authorized by G.L. c. 268B to enforce G.L. c. 268A, the state conflict of interest law, and in that regard, to initiate and conduct adjudicatory proceedings.

2. On January 23, 2019, the Commission (1) found reasonable cause to believe that Stephen Comtois (“Comtois”) violated G.L. c. 268A, §§ 19, 23(b)(2)(ii) and 23(b)(3), and (2) authorized the initiation of adjudicatory proceedings.

Comtois Purchased Property Identified for Donation to the Town

FACTS

3. Comtois, a resident of Brookfield, Massachusetts, was Chairman of the Town of Brookfield (“Town”) Board of Selectmen during the relevant time.

4. In his private capacity, Comtois operates an unincorporated construction company called Custom Changes.

5. In 2016, an elderly Brookfield resident (“Donor”) decided to donate real estate (the “Property”) to the Town. The Donor believed the Property was over assessed and unbuildable.

6. A friend of the Donor who is a real estate agent, Marita Tasse (“Agent”), assisted the Donor in communicating with the Town. The Agent drafted a letter to the Town expressing the Donor’s desire to donate the Property, which the Donor signed.

7. Comtois has known the Agent for nearly twenty years. Comtois considers the Agent a friend and has conducted real estate transactions with or with the assistance of the Agent.

8. Due to a defect in the Property’s title, the Town’s Assistant Assessor requested authorization for Town Counsel to clear the title in preparation the Town’s acceptance of the Property’s donation.

9. Comtois, as a Selectman, advised the Assistant Assessor that the Town’s acceptance of the Property’s donation required Town Meeting approval. According to the Town bylaws, Town Meeting is held on the first Monday in May.

10. During a December 13, 2016 Board of Selectmen’s meeting, Comtois moved to place acceptance of the Property’s donation before Town Meeting with the understanding that if Town Meeting chose to accept the donation, the Town would then pay to clear the title. Comtois voted in favor of his motion, which passed.

11. After the vote, the Assistant Assessor asked if someone from the Board of Selectmen would send a letter to the Donor regarding the vote. Comtois volunteered to call the Donor, rather than send a letter.

12. Instead of calling the Donor, Comtois called the Agent on or about December 14, 2016.

13. On or about December 27, 2016, the Assistant Assessor requested an

update from Comtois regarding the Property's donation. Comtois responded that it should be resolved shortly.

14. On or about January 9, 2017, the Assistant Assessor again requested an update from Comtois on the status of the Property's donation because the post office had returned the real estate tax bills for the Property. Comtois' response gave no indication that the Property's donation was not forthcoming.

15. During this same period, Comtois and the Agent arranged the purchase of the Property by Comtois for \$200. The transaction was recorded at the Worcester County Registry of Deeds on or about February 1, 2017. The market value of the Property was substantially more than \$200. The assessed value of the Property as of February 1, 2017 was over \$40,000.

LAW

Section 19

16. As a Town of Brookfield Selectman, Comtois was a municipal employee as that term is defined in G.L. c. 268A, § 1.

17. General Laws chapter 268A, § 19 prohibits a municipal employee from participating as such an employee in a particular matter in which to his knowledge he has a financial interest.

18. The decision by the Town whether to accept the Property's donation was a particular matter in which Comtois, to his knowledge, had a financial interest.

19. Comtois participated as a Selectman in the decision whether to accept the Property's donation by, among other actions, (1) moving to put acceptance of the

Property's donation before Town Meeting; (2) voting in favor of the motion; (3) volunteering to communicate with the Donor concerning the donation on behalf of the Town; and (4) twice providing the Assistant Assessor with updates regarding the status of the Property's donation.

20. By participating as a Selectman in a particular matter in which to his knowledge he had a financial interest, Comtois violated G.L. c. 268A, § 19.

Section 23(b)(2)(ii)

21. General Laws chapter 268A, § 23(b)(2)(ii) prohibits a public employee from knowingly, or with reason to know, using his official position to secure for himself an unwarranted privilege of substantial value that is not properly available to similarly situated individuals.

22. The opportunity to purchase the Property was a privilege.

23. The privilege was unwarranted because Comtois used his Selectman position to secure for himself the opportunity to purchase the Property and deprive the Town of the benefit of the Property's donation.

24. The unwarranted privilege was of substantial value because the Property, which had an assessed value of over \$40,000, was worth substantially more than the \$200 Comtois paid for it.

25. Comtois used his Selectman position to make himself the Town's representative concerning the donation of the Property, effectively blocking communications between the Town and the Donor and facilitating his own private purchase the Property through the Agent, his friend and longtime professional colleague.

26. The unwarranted privilege was not properly available to individuals similarly situated to Comtois as a Selectman because no selectman or other municipal employee may lawfully use their official position to secure for themselves the opportunity to privately purchase property which the municipality is in the process of deciding whether to accept as a donation.

27. By using his Selectman position to secure an unwarranted privilege of substantial value, not properly available to similarly situated individuals, Comtois violated G.L. c. 268A, § 23(b)(2)(ii).

**Comtois Retaliated Against a Brookfield Resident who Publicly
Confronted Comtois about Purchasing the Property**

FACTS

28. A Brookfield resident (“Resident”) confronted Comtois about purchasing the Property during a February 21, 2017 publicly televised Board of Selectmen meeting. The resident provided on-call snow removal for the Town for approximately 15 years.

29. Approximately three weeks later, Comtois as a Selectman contacted the Brookfield Highway Superintendent and directed him to fire the Resident from performing snow removal for the Town due to missing paperwork.

Section 23(b)(3)

30. General Laws chapter 268A, § 23(b)(3) prohibits a public employee from knowingly, or with reason to know, acting in a manner that 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.

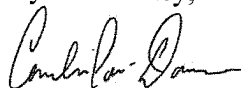
31. By acting officially as to the Resident after the Resident had publicly confronted Comtois about purchasing the Property, Comtois acted in a manner that would have caused a reasonable person to conclude that he would act with bias in his official duties. In so doing, Comtois violated G.L. c. 268A, § 23(b)(3).

WHEREFORE, Petitioner asks that the Commission:

1. find that Comtois violated G.L. c. 268A, §§ 19, 23(b)(2)(ii) and 23(b)(3); and
2. impose a civil penalty and grant such other relief as may be appropriate.

Respectfully submitted,

Petitioner State Ethics Commission
By its attorney,



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