

September 29, 2006

Katherine J, Durant  
Atlas Investments  
333 N.W. 9<sup>th</sup>, Suite 1009  
Portland, Oregon

Dear Ms. Durant:

At its September 29, 2006 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION  
ADVISORY OPINION NO. 06A-1004**

STATED FACTS: A member of the Oregon Investment Council (OIC) has financial interests in real estate investment and development. The councilor and a spouse share interests in limited liability companies and partnership interests in limited partnerships. These entities own parcels of real estate. Neither the councilor nor the spouse gain ownership rights to any of the real property holdings.

Under current law, memberships in limited liability companies and limited partnership interests are considered personal property [see ORS 63.239 and ORS 70.285].

In some cases, the entities, in which the councilor and spouse own interests, hold interests in other entities, which also hold interests in real estate.

None of the entities, in which the councilor and spouse hold interests, do business with OIC. It is not anticipated that the entities will do business with the OIC.

The OIC has not invested in any of the entities, in which the councilor and spouse hold interests. It is not anticipated that OIC will make such investments.

**RELEVANT STATUTES:** The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

**244.050(1) “Persons required to file statement of economic interest; filing deadline; civil penalty.** (1) On or before April 15 of each year the following persons shall file with the Oregon Government Standards and Practices Commission a verified statement of economic interest as required under this chapter:”

244.050(1)(p) “Every member of the following state boards and commissions:”

244.050(1)(p)(K) “Oregon Investment Council”

244.050(2) “By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.”

244.060(5)(a) “The listing of all real property in which the public official or candidate therefore or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority.”

244.060(5)(b) “This subsection does not require the listing of the principal residence of the public official or candidate.”

**QUESTION:** When completing the Annual Verified Statement of Economic Interest (SEI) form, must the councilor list the memberships held in limited liability companies or limited partnerships that own real property?

**OPINION:** ORS 244.060(5)(a) requires that the councilor list all real property, in which the councilor or a spouse holds personal, beneficial ownership interests, options to purchase or sell, land sales contracts and any rights of any kind. The real property listed should include all that is located within the statewide geographic boundaries of the OIC.

In the stated facts, the councilor holds memberships and limited partnerships that are defined as personal property under current laws. The interests held by the councilor do not convey ownership rights in the real property to the councilor or the spouse.

Therefore, the memberships and limited partnerships would not be items required to be listed under ORS 244.060(5)(a).

The SEI form asks only for information that is required to be disclosed by ORS Chapter 244. A person required to complete the form fulfills the obligation by providing the required information. The law does not prohibit a person from disclosing additional information that person believes to be necessary to fully define that person's financial interests in real property. If the councilor wished to list real property held by the limited liability memberships and limited partnerships on the SEI, the councilor may do so voluntarily.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE GSPC MAY ALSO APPLY.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the 29th day of September 2006.

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John P. Kopetski, Chairperson

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Lynn Rosik, Assistant Attorney General