



## TOWN OF WEST SENECA

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# MEMO

To: The Honorable Town Board

From: Tina M. Hawthorne, Town Attorney

Date: September 5, 2019

Subject: Ethics Board Advisory Opinion

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Attached is the Ethics Board Advisory Opinion regarding the Mr. H. and Mr. D. I request an executive session to discuss the matter.

TO: The Honorable Town Board  
FROM: Board of Ethics  
DATE: August 28, 2019  
RE: Ethics Complaint against Mr. H and Mr. D

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### COMPLAINT

T.R., made an oral complaint to The Town of West Seneca Ethics Board (the "Board"), which was subsequently put in writing, concerning Mr. H's and Mr. D's alleged conduct in violation of the Town of West Seneca Code of Ethics.

### INVESTIGATION

On June 12, 2019, the Board was provided with information concerning the complaint. That day, the Board began its investigation into the allegations of the complaint. During its investigation, the Board considered the testimony of various witnesses including, but not limited to W.H., T.E., T.R., and the subpoenaed testimony of Mr. H and Mr. D.

Additionally, while this complaint was pending, there were various stories in the media and a civil lawsuit commenced in the Erie County Supreme Court, concerning the identical issues before the Board.

### FINDING

Pursuant to the Code of Ethics § 13-3(G), "Town officers, officials, and employees shall not disclose any confidential information or use said information to further their personal interest, unless required to do so by law or court order."

Pursuant to the Code of Ethics § 13-3(K), "A Town officer, official or employee shall not induce or aid other officials officers or employees of the Town to violate any provisions of this Chapter."

The Board having done its due diligence, including subpoenaing "key players," including Mr. H and Mr. D, has duly deliberated. Due to the pending civil lawsuit, and because the parties therein are the same parties involved in the instant complaint, there was a lack of cooperation of the subpoenaed witnesses, on the

advice of their respective attorneys. As a result, the Board cannot complete its investigation.

#### RECOMMENDATION

The Recommendation of the Board is that without cooperation from the witnesses and therefore, without the ability to complete the investigation, the Board cannot issue a finding either way.