



CITY COUNCIL OF LINCOLN NEBRASKA

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Roy Christensen
City Council Member At Large

December 16, 2016

Teresa Meier
Lincoln City Clerk
555 S. 10th Street
Lincoln, NE. 68508

re: Accountability and Disclosure Opinion

The purpose of this letter is to inform you, and the citizens of Lincoln, that I will recuse myself from the vote on the Costco zoning request on Monday, December 19, 2016.

Please find attached a copy of the opinion given to me by the Accountability and Disclosure Commission.

Sincerely,

Roy A. Christensen
Lincoln City Council
At-Large

State of Nebraska

Accountability and Disclosure Commission

P.O. BOX 95086
Lincoln, Nebraska 68509
www.nadc.nebraska.gov



11th Floor, State Capitol
Phone (402) 471-2522
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December 15, 2016

Roy A. Christensen
820 Cottonwood Drive
Lincoln, NE 68510

Re: Potential Conflict of Interest Statement delivered on December 12, 2016

Dear Mr. Christensen,

This will acknowledge receipt of your Potential Conflict of Interest Statement ("Statement") which you delivered to our office on December 12, 2016. At the time you delivered the Statement, we had an opportunity to talk with you to obtain some additional information with respect to it.

The facts in this matter, as we understand them, are as follows: You are a City Council member of the City of Lincoln, Nebraska. You are also the owner of Christensen Audiology & Hearing Aid Center, which is located at 77th and A Street in Lincoln. As explained in your subject Statement, Costco, the discount merchandiser, is seeking zoning changes for locating a Costco Store at 13th and Pine Lake Road in Lincoln. Costco has a department in their stores which sells hearing aids at prices which may be described as discounted from retail prices.

In our discussion, you stated that Costco may be targeting a different portion of the market than the one which your business serves, which relies heavily upon personal service, particularly follow-up service. You also noted that the proposed location for Costco at about 14th and Pine Lake Road is some distance away from your business location. These are factors which would militate against a potential conflict of interest with your vote. However, your Statement explicitly states the following in Item 3: "Costco will compete directly with my business by selling hearing aids. I will be asked to vote on their request." Similarly, in Item 5 of the Statement entitled "Nature of Financial Benefit or Detriment" you wrote: "Costco sells hearing aids at retail costs lower than I can purchase them at wholesale. This will put my business at significant disadvantage and risk."

The applicable Nebraska Statute in this case is 49-1499.03(1). This Statute applies to you as an elected City Council representative. The Statute provides

that if you, as an elected city representative, "would be required to take any action or make any decision in the discharge or [your] official duties that may cause financial benefit or detriment to [you], ...or a business with which [you are] associated," then you should, "prepare a written statement describing the matter requiring action...and the nature of the potential conflict.." You have done this by delivering your Statement to the Commission. This Statement should also be filed with the person who keeps records for the City Council.

The term, "business with which you are associated" would include a business in which you are the owner. (See, Section 49-1408, Nebraska Statutes)

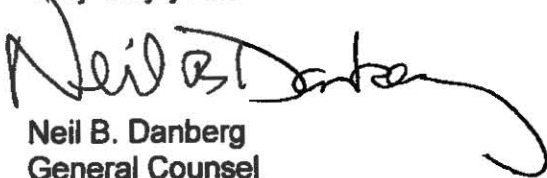
Based on the representations which you have made in your Statement, and applying that information to the law as described above, we conclude that your vote on zoning changes for locating a Costco Store at 13th and Pine Lake Road in Lincoln may cause you or the business with which you are associated a financial benefit or detriment. It is foreseeable that both you and the business with which you are associated would be affected by this vote.

Therefore, we conclude that you do have a conflict of interest, and you should not vote on the zoning changes for locating the Costco Store at 13th and Pine Lake Road.

Please note that this opinion is based upon the facts which you have provided to us. If any of those facts which have been recited above are not accurate or are incomplete, this may cause us to alter this opinion. We also note that this is a staff opinion, and it is not a formal Commission Advisory Opinion. This opinion responds to your specific request, but this opinion may not apply to other persons whose situation differs from your own.

The Commission thanks you for bringing this matter to our attention.

Very truly yours


Neil B. Danberg
General Counsel