

TOWN LAW § 198(3).

A conflict of interests results if the town highway superintendent in his official or private capacity operates heavy equipment on behalf of a water district in the town to repair water pipes located under a road.

March 18, 1998

David Hagstrom, Esq.  
Town Attorney  
Town of Amenia  
P. O. Box 112  
Poughkeepsie, NY 12602

Informal Opinion  
No. 98-11

Dear Mr. Garrity:

You have explained that the Town of Amenia has approved a municipal cooperation agreement with the town water district under which the town will lease certain heavy equipment to the district. You have asked whether the town highway superintendent, who is an experienced heavy equipment operator, may in a private capacity be employed by the water district to operate the equipment. The heavy equipment would be used to uncover water lines located under a road and repair these lines.

In our view, the undertaking of this work by the highway superintendent in his official or private capacity is a conflict of interests. Under section 198(3) of the Town Law, a town water district is authorized to construct and maintain water mains and conduits in, on, along or under the surface of any road within the water district. This provision makes the work "subject to the supervision of the town superintendent of highways". It is apparent that the superintendent of highways cannot impartially supervise his own work.

We conclude that a conflict of interests results if the town highway superintendent in his official or private capacity operates heavy equipment on behalf of a water district in the town to repair water pipes located under a road.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE  
Assistant Attorney General

In Charge of Opinions