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Beer Board

Ernest Burgess

From: Evan Cope <ecope@mborolaw.com>
Sent: Thursday, September 06, 2012 10:31 AM
To: Ernest Burgess
Cc: 'Josh McCreary'; 'Tommy Santel'
Subject: Beer Board Membership

Mayor:

I write in response to the request for a legal opinion with regard to whether it would be a conflict for an officer with the Sheriff's Office to serve on the Beer Board. In short, there is no specific statutory provision that prohibits it, but as a practical matter, it may be problematic. The officer would have to determine, on a case by case basis, whether any particular matter presented a conflict with regard to his or her direct involvement, or with regard to the Sheriff's Office involvement, in any given matter that comes before the board. To the extent that there are matters presented to the Beer Board wherein the Sheriff's Office was involved in prosecution of the license holder, I think that would be especially problematic. If that occurs often, then the officer's recusal on those matters might affect the Beer Board's ability to conduct business since it only has five (5) members, and would need three (3) present and able to vote in order to have a quorum. Additionally, to the extent that a conflict is questionable, and no recusal takes place, that scenario simply invites legal challenges to any action the Beer Board might take.

I hope this opinion is responsive to the request. If not, or if I may be of further assistance, please do not hesitate to let me know.

Thanks.

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