



THE HAMPTON CITY ATTORNEY'S OFFICE PRESENTS

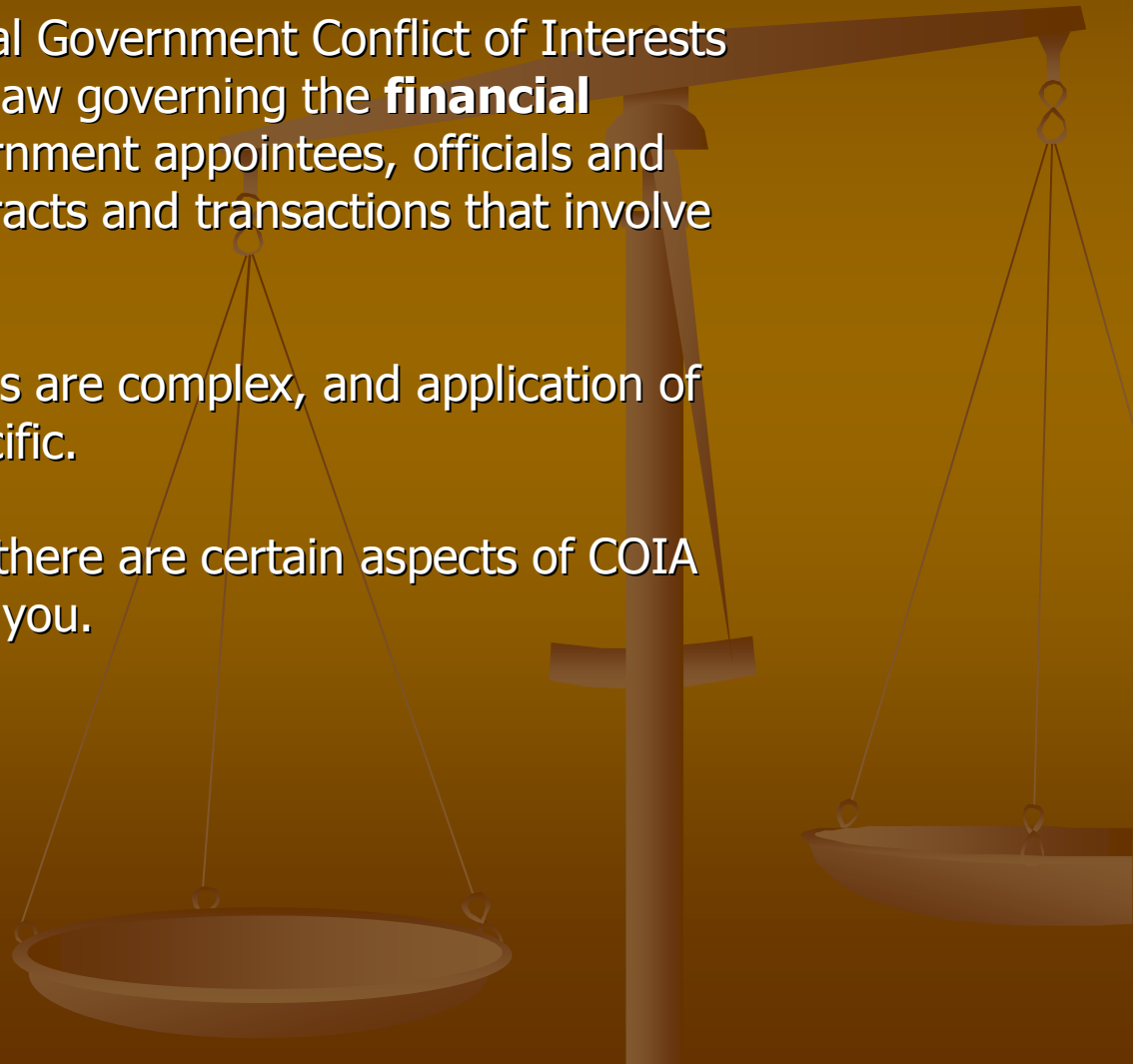
The State and Local Government
Conflict of Interests Act
and
Ethics for Zoning Officials

State and Local Government Conflict of Interests Act

The State and Local Government Conflict of Interests Act is the primary law governing the **financial interests** of government appointees, officials and employees in contracts and transactions that involve their agency.

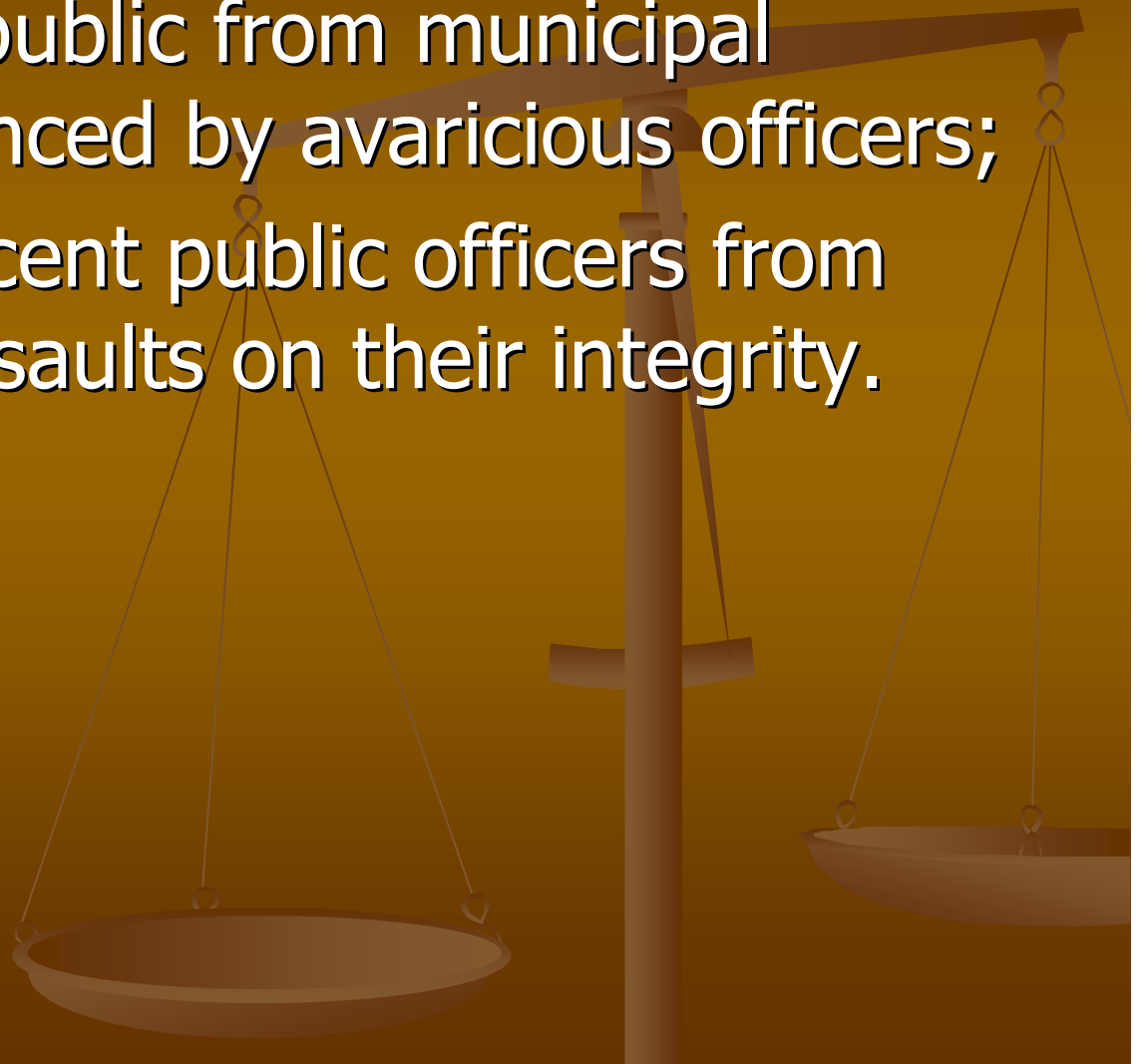
The Act's provisions are complex, and application of the Act is fact-specific.

As zoning officials there are certain aspects of COIA that directly affect you.



Purpose of COIA

- To protect the public from municipal contracts influenced by avaricious officers;
- To protect innocent public officers from unwarranted assaults on their integrity.



The Reach of COIA



- The state law regulates conflicts of interest by prohibiting municipal appointees, officers and employees from having an interest in any contract with the municipality over which they have control.
- It also prohibits other acts such as acceptance of bribes, gifts and use of insider information.
- Yes—this applies to zoning officials.

Personal Interest in a Contract



An officer generally may not have a “personal interest in a contract” with his or her own governmental agency.

An officer will have a “personal interest in a contract” with her public body if he or she, a family member, or a business in which he or she has a “personal interest” is a party to the contract.

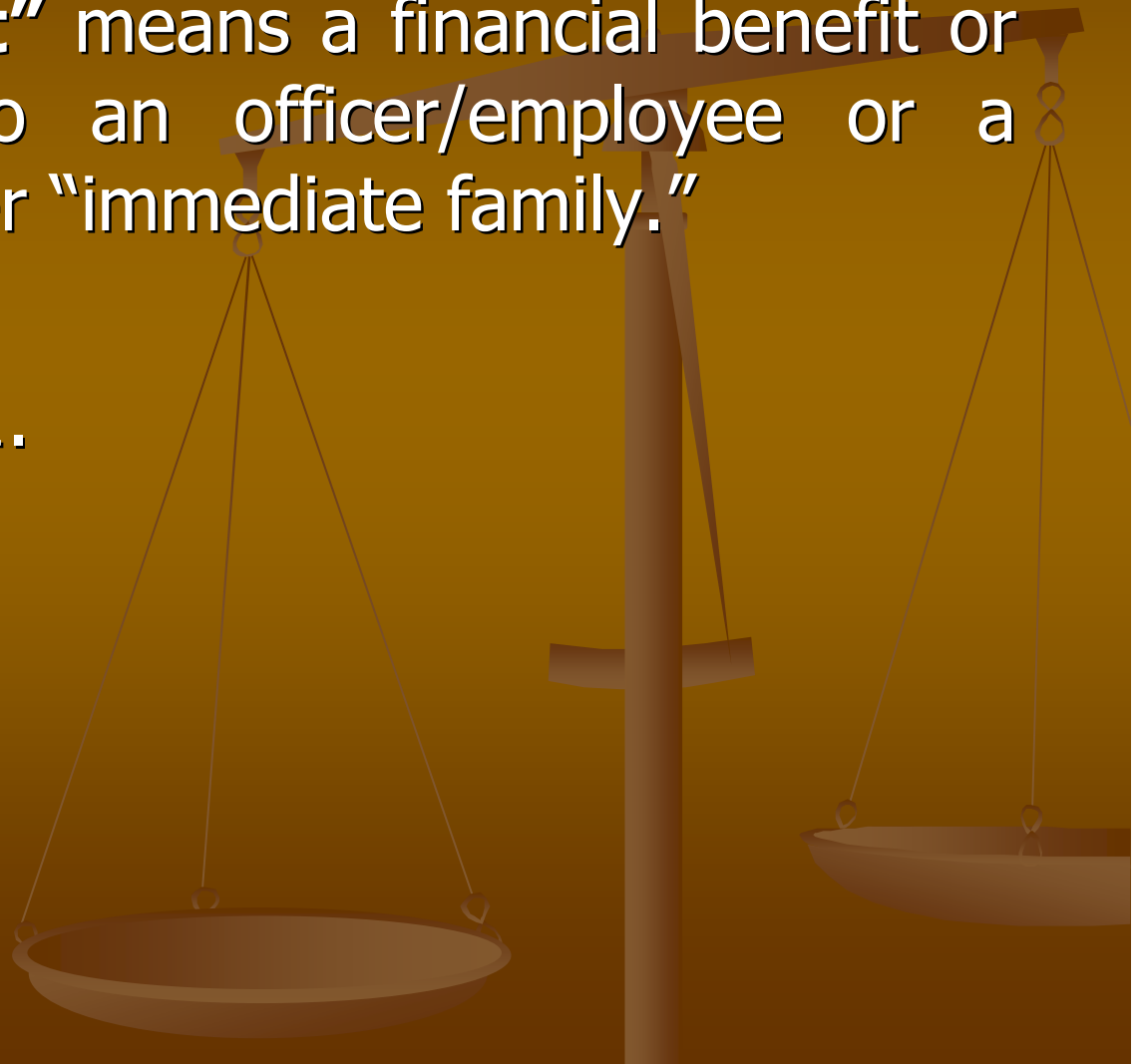
For employees, restriction applies only to contracts with own department.

Okay-What does that mean?

“Personal Interest”

“**Personal interest**” means a financial benefit or liability accruing to an officer/employee or a member of his or her “immediate family.”

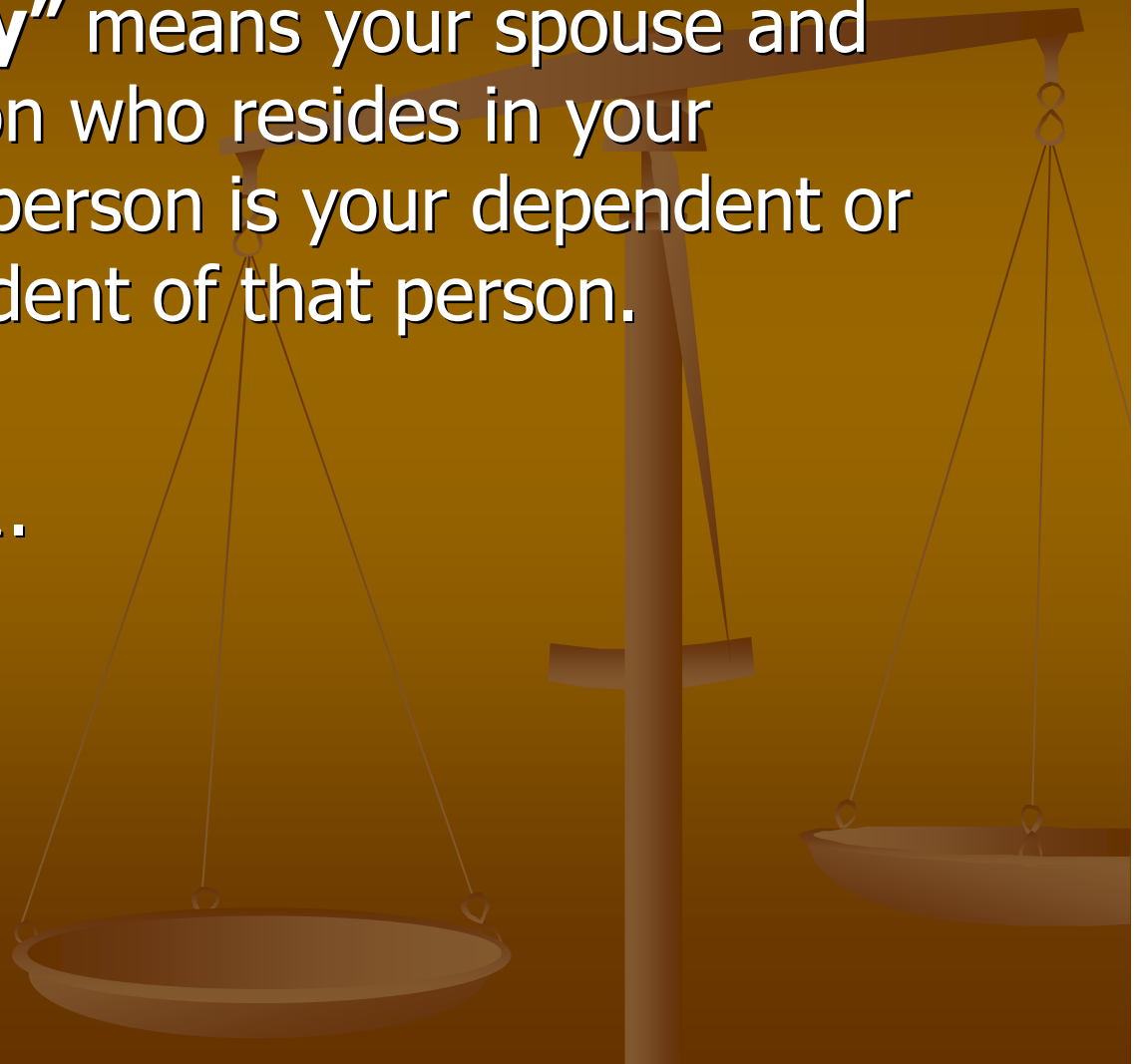
Va. Code § 2.2-3101.



“Immediate Family”

“**Immediate family**” means your spouse and also any other person who resides in your household if (i) the person is your dependent or (ii) you are a dependent of that person.

Va. Code § 2.2-3101.

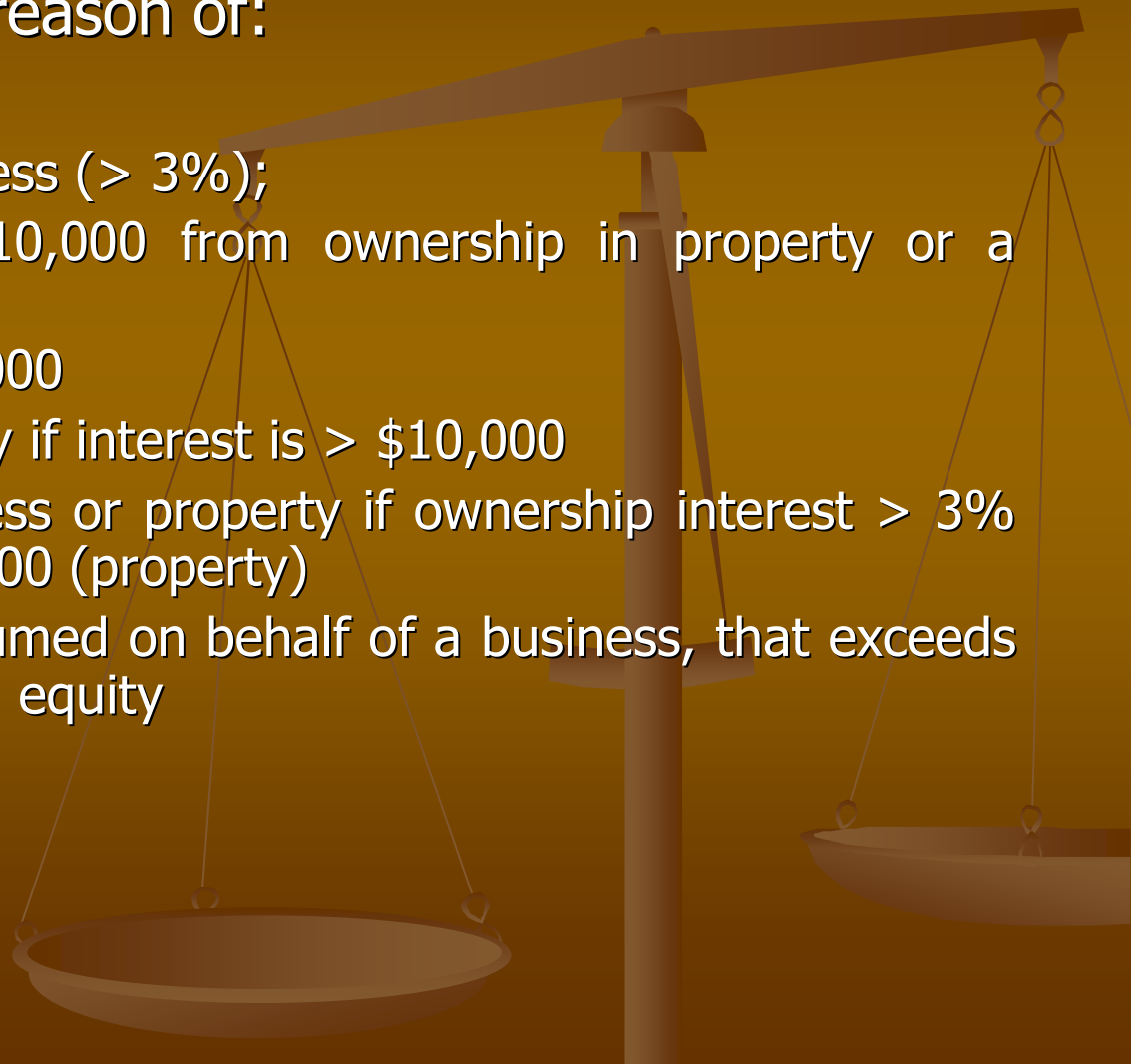


Do You Have a “Personal Interest”?

Such interest exists by reason of:

- Ownership of a business (> 3%);
- Annual income > \$10,000 from ownership in property or a business
- Annual salary > \$10,000
- Ownership of property if interest is > \$10,000
- Option to own business or property if ownership interest > 3% (business) or > \$10,000 (property)
- Personal liability, assumed on behalf of a business, that exceeds 3% of business's total equity

Va. Code § 2.2-3101.

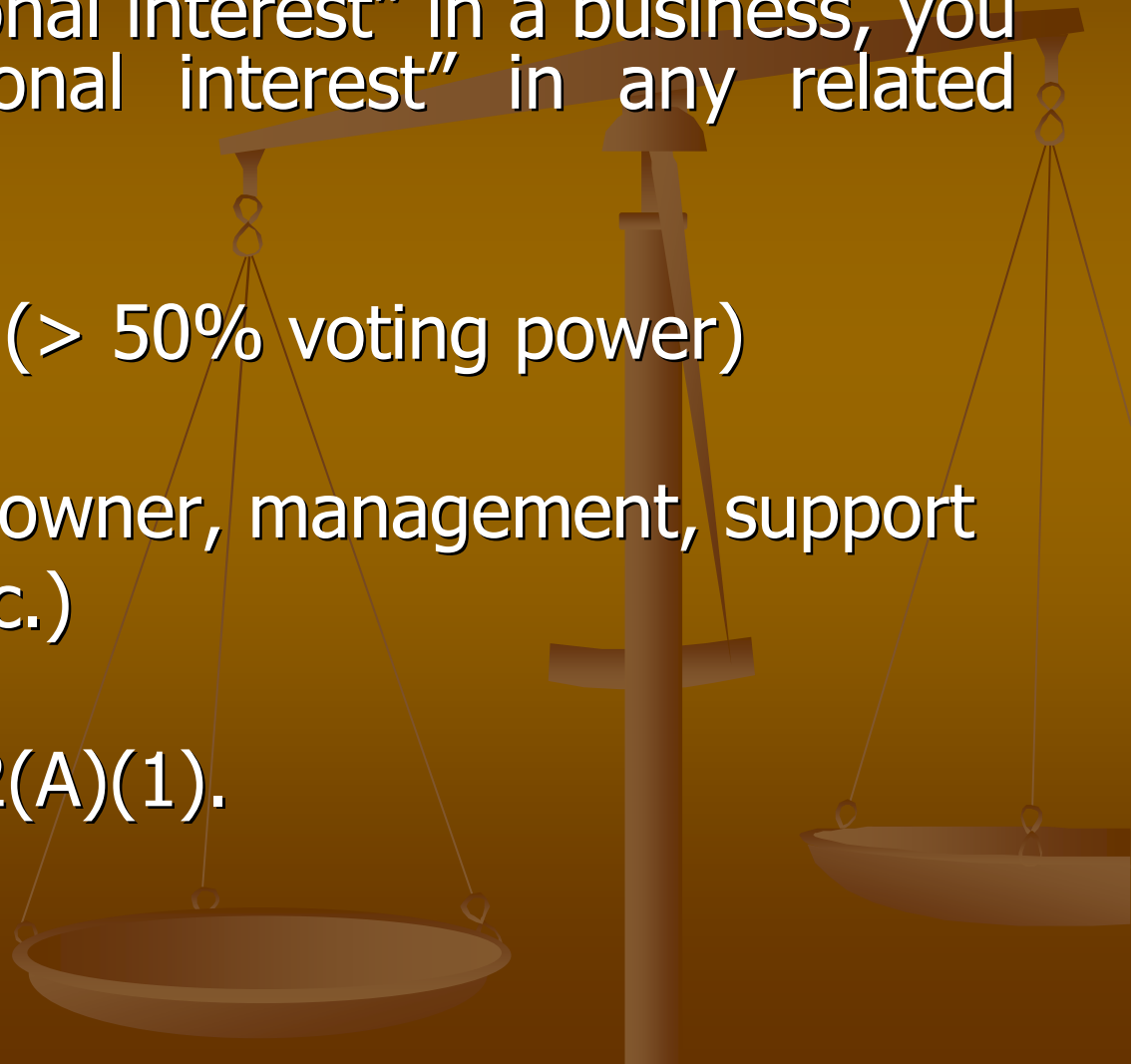


Don't Forget About Related Business Entities

If you have a "personal interest" in a business, you also have a "personal interest" in any related business entity:

- Parent-subsidiary (> 50% voting power)
- Affiliated (shared owner, management, support staff, facilities, etc.)

Va. Code § 2.2-3112(A)(1).



Prohibited Conduct



No officer may accept anything of value for

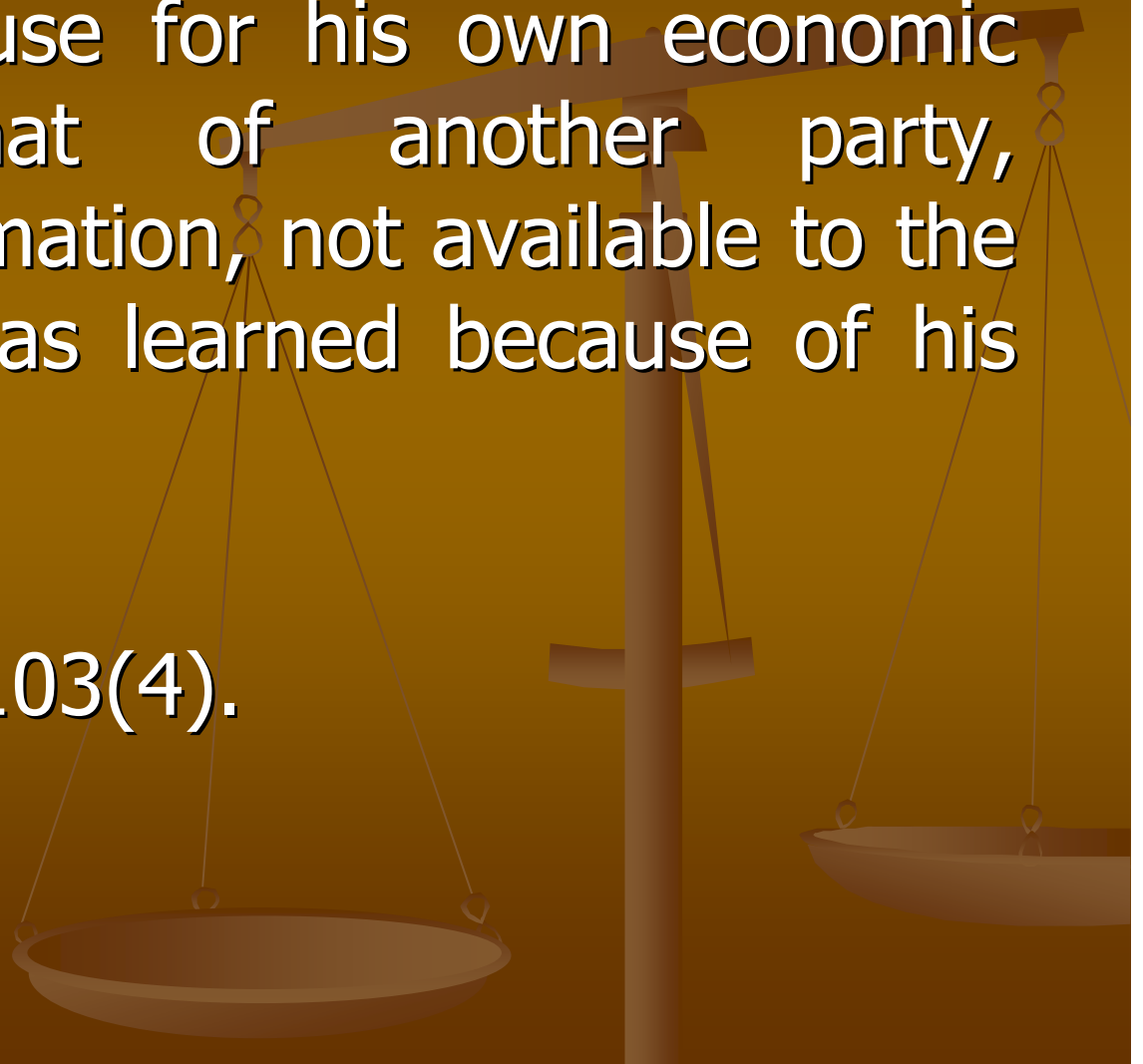
- Offering or considering obtaining governmental employment, appointment, or promotion of any person
- Using his or her public position to obtain a contract with the government for any person or business

Va. Code § 2.2-3103(1)-(3).

Insider Information

No officer may use for his own economic benefit, or that of another party, confidential information, not available to the public, that he has learned because of his public position.

Va. Code § 2.2-3103(4).



GIFTS



No officer may accept a gift from a person who has interests that may be substantially affected by the performance of the officer or employee's official duties, where the timing and nature of the gift would cause a reasonable person to question the officer or employee's impartiality. Additionally, no officer or employee may accept gifts on a basis so frequent as to raise the appearance that he is using his public office for private gain.

Va. Code § 2.2-3103(8).

“But it’s just a ticket to the Redskins game”

A “gift” is “any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.”

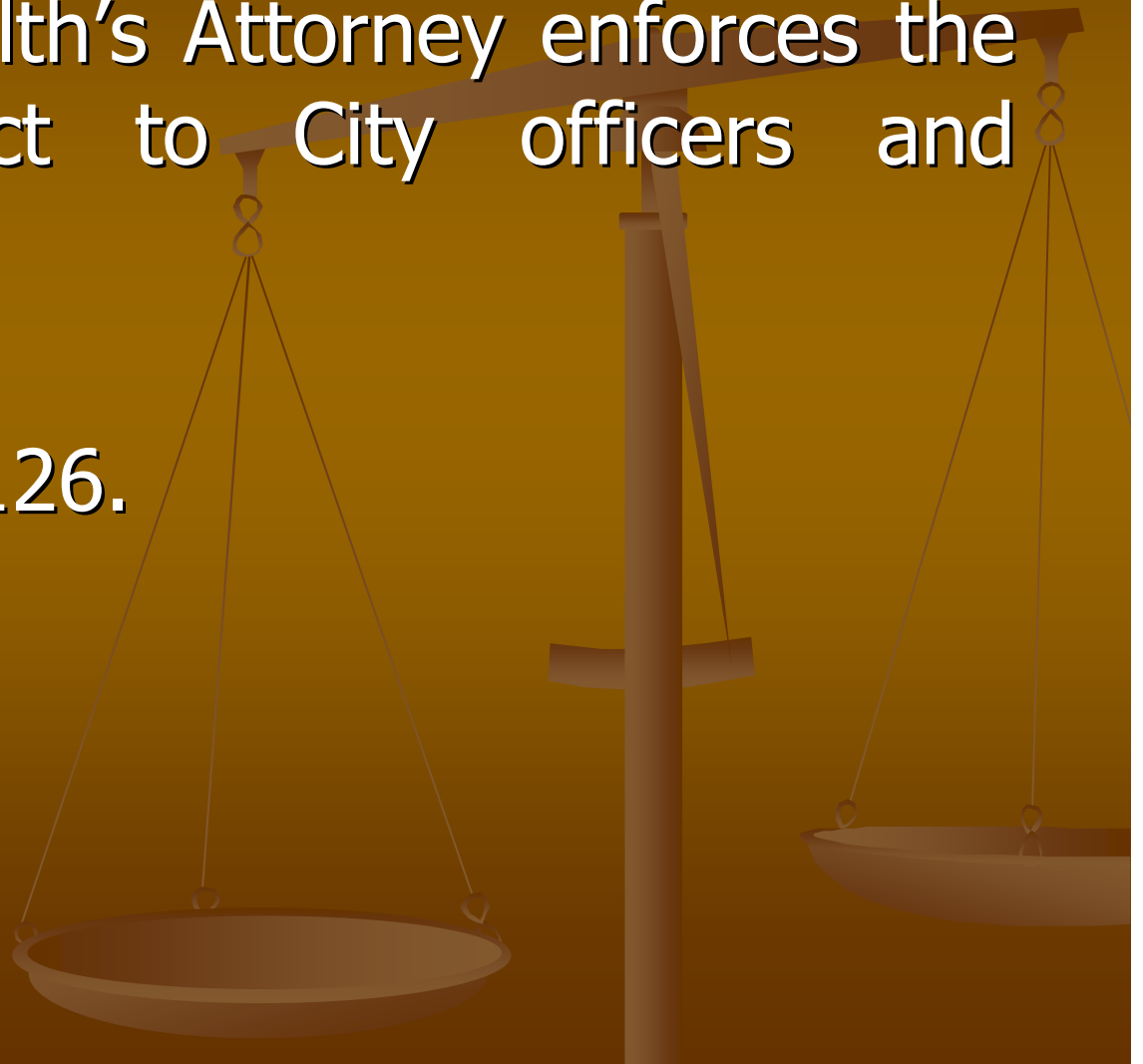
A ticket or pass is a “gift” only if it is actually used.

Va. Code § 2.2-3101.

ENFORCEMENT

The Commonwealth's Attorney enforces the Act with respect to City officers and employees.

Va. Code § 2.2-3126.

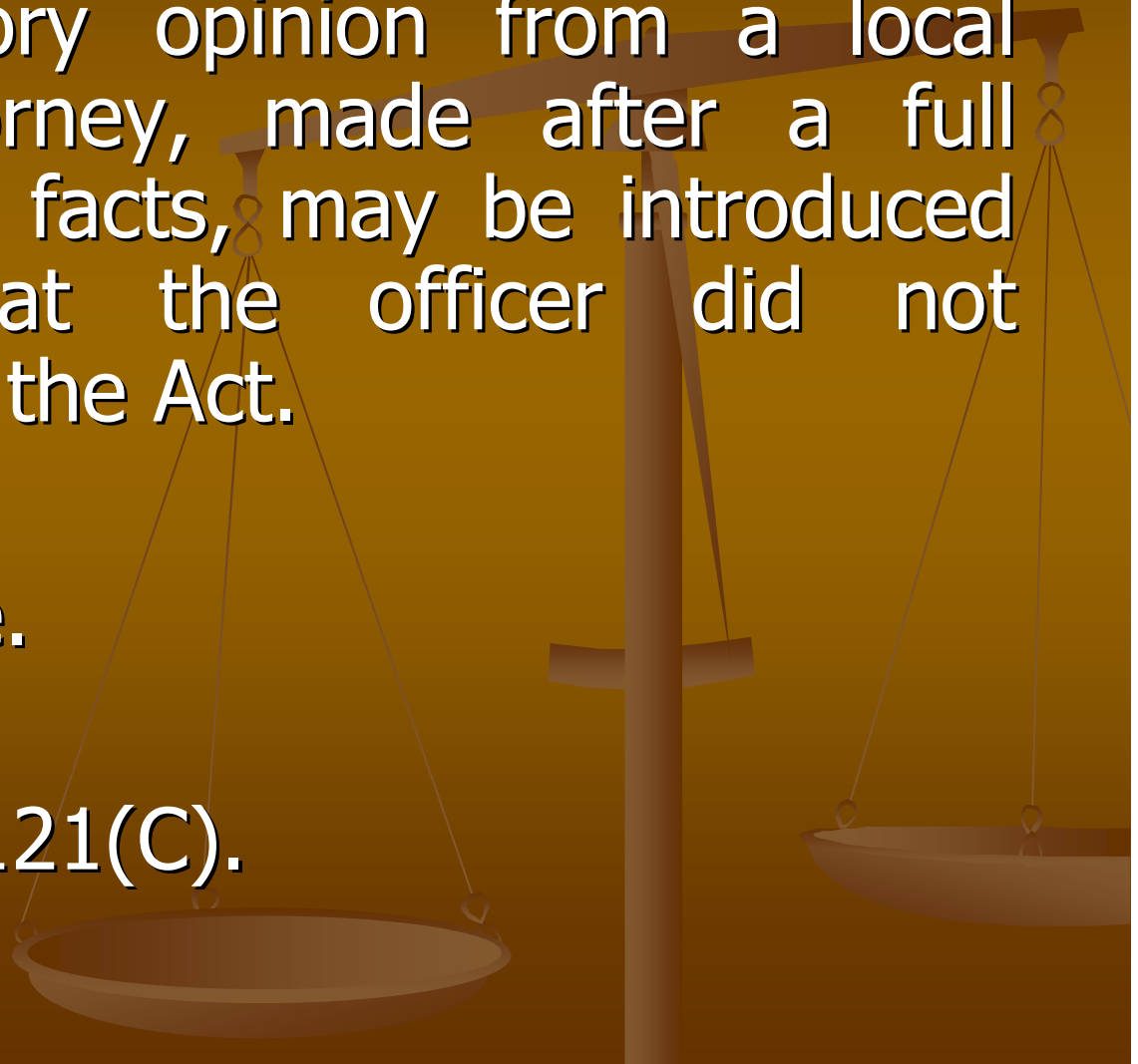


“But the City Attorney said it was okay”

A written advisory opinion from a local government attorney, made after a full disclosure of the facts, may be introduced as evidence that the officer did not knowingly violate the Act.

It's just a defense.

Va. Code § 2.2-3121(C).



The Commonwealth's Attorney's Opinion=Immunity

An officer may not be prosecuted for a knowing violation of the Act if the alleged violation resulted from his good faith reliance on a written opinion of the Commonwealth's Attorney and the opinion was made upon written request in which the officer fully disclosed all pertinent facts.

Va. Code § 2.2-3121(B).

What's a Zoning Official to do?

- If it seems inappropriate, feels inappropriate—don't do it.
 - If you need a legal opinion—ask for it.
 - Err on the side of what appears or will be perceived to be right.
 - Don't forget any local COIA ordinances.
 - Remember there ain't no such thing as a free lunch.
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