The North Carolina State Bar
Authorized Practice Committee

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OCT 3 1 2005

Edward V. Zotian
1076 West Fourth Street, Suite 400
Winston-Salem, NC 27101

Re: Inquiry, Authorized Practice Committee
File number: 05AP0070

Dear Mr. Zotian:

You submitted a request for an advisory opinion regarding whether you, as an individual who is not currently an active member of the North Carolina State Bar, can represent others before a city Planning Board or before the City Council with respect to petitions for rezoning. Your inquiry is for the city of Winston-Salem and Forsyth County at this point, but you state that the rezoning petition proceedings are uniform throughout the state.

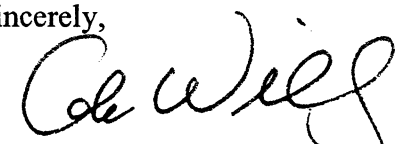
The Committee has considered your inquiry at its October 19, 2005 meeting, and makes the following findings based upon information provided by the City Attorney for Winston-Salem, Ronald Seeber. General use zoning matters before the Planning Board and the City Council are considered legislative in nature and are conducted accordingly. Nobody is sworn in and there is no presentation of evidence by parties. At both the Planning Board level and the City Council level, there is a period of time allocated for public comment, during which anybody can be heard either in favor of the petition or against it. Such meetings are not quasi-judicial in nature and it is possible for a person who is not an active member of the North Carolina State Bar to speak for another at such a meeting or assist another with such a matter without engaging in the unauthorized practice of law. The Committee cautions you, however, that the general prohibitions of the unauthorized practice of law statutes still apply. A person who is not an active member of the North Carolina State Bar cannot hold himself out as competent or qualified to give legal advice or counsel, cannot provide legal advice to another, and cannot draft legal documents for another. N.C. Gen. Stat. §§ 84-2.1 and 84-4.

The City Attorney distinguished special use permit proceedings from general use proceedings. He stated that the special use permit proceedings are considered quasi-judicial in nature. Evidence is formally presented. Witnesses are sworn in, provide testimony, and are subject to cross-examination. Given the quasi-judicial nature of such proceedings, the Committee finds that it would be the unauthorized practice of law for an individual who is not an active member of the North Carolina State Bar to appear for another at such a meeting or proceeding or to otherwise assist or represent another at such a meeting or proceeding.

C. Colon Willoughby, Jr., Chair
Samuel F. Davis, Vice-Chair

Thank you for your inquiry in this matter. Please contact the Committee's counsel, Jennifer Porter, with any questions.

Sincerely,



C. Colon Willoughby, Jr., Chair
Authorized Practice Committee

Cc: Ronald Seeber