

The logo for "Dear Ethics Lawyer" is written in a black, cursive script font. The word "Dear" is smaller and positioned to the left of "Ethics Lawyer". A small "TM" trademark symbol is located to the right of "Lawyer". The background of the logo is a light-colored, textured surface with some faint, illegible handwriting in the background. An orange diagonal banner is visible in the top right corner of the page, partially overlapping the logo area.

Dear Ethics Lawyer™

The Legal Ethics Project. Supporting professionalism with information.

Q: Dear Ethics Lawyer,

I am an attorney for a company desiring to complete a relatively small real estate transaction with an individual to facilitate a larger development. In order to complete the transaction, the individual needs to document an agreement she has with a third party by which the third party will release their interest. In order to make this happen, she asked me if I could draft a writing to reflect the agreement between her and the third party, that she can then get signed. My client company doesn't mind. Can I do it and if so under what circumstances?

A: Yes, but it is all about context and clarity about who you are representing when you do so. In order not to create a potential conflict of interest and an expectation on her part that you are advising and representing her as her lawyer in preparing the document (which can occur by the giving of legal advice or performing of legal work in a context in which the recipient reasonably believes you are representing them), specifically advise her that you will prepare the document as the company's lawyer, not as her lawyer. Suggest that she take the opportunity to obtain advice from a lawyer of her choosing for independent advice or if she has any question or concern about it.

The Ethics Lawyer

About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 125 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to mark.hinderks@stinson.com.

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