

**Advisory Opinion**  
**Case No. 00010.A**

To: [John]  
Date: June 14, 2000

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In a letter dated May 17, 2000, you asked the Board of Ethics whether any provisions of the City's Governmental Ethics Ordinance would prohibit you, a Coordinator of [Work] in the Department of [Y], from purchasing a City-owned vacant lot located at [1234 Avenue] from the City under the Adjacent Neighbors Land Acquisition Program (ANLAP). After reviewing relevant law and after conferring with the Department of General Services (DGS), the Board has determined that the Governmental Ethics Ordinance does not prohibit you from purchasing a City-owned lot under ANLAP.

**FACTS:** The facts upon which our opinion is based come from your letter, staff conversations with you, our review of ANLAP's enabling ordinance, and consultation with the Department of General Services.

ANLAP is administered by DGS. Under the enabling Ordinance which established this program, homeowners in certain areas of the City may purchase City-owned vacant lots for less than market value. In order to qualify for ANLAP, the prospective buyer must own and occupy the property immediately adjacent to the vacant lot; the vacant lot must be zoned residential; the appraised fair market value of the vacant lot must not exceed \$10,000; and the prospective buyer must not be delinquent in the payment of real estate taxes or have any outstanding debt with the City of Chicago. The minimum bid for purchase of property under this program is \$300.00. Upon receipt of a bid for property under ANLAP, DGS sends notice by regular and certified mail to the owners of the other properties adjacent to the lot in question, informing the owners of the bid, without revealing the amount, and providing them with an opportunity to submit a sealed bid for the parcel for a period of thirty days from the date of the mailing of the notice. The bids are then opened by the Department at a public meeting convened before a certified court reporter. All bids which conform to the requirements of ANLAP are then referred to the City Council committee having jurisdiction over the disposition of City-owned real estate, which then holds a public hearing. The City Council may accept the higher bid by a majority vote, or may reject both bids by a vote of three-quarters of its members.

You state that you have already submitted a minimum bid of \$300.00 to purchase the lot at [1234 Avenue]. DGS has informed Board staff that you meet all the requirements for submitting this bid under ANLAP. The Department also states that it sent notice to the owner of the other adjacent property ([1235 Avenue]) informing him of your bid and that this letter was returned as undeliverable. The Department of General Services confirmed that it has concluded the owner of the adjacent property is not the occupier of the property, and is therefore not qualified to bid under ANLAP. The Department also reports that the lot has an appraised value of "over \$5,000.00." Finally, you have stated that as an employee of the Department

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of [ Y ], you do not participate in the making of any decisions concerning ANLAP, nor do you have occasion to be involved in any aspect of the ANLAP program.

**LAW:** The Governmental Ethics Ordinance provision most relevant to your case is Sec. 2-156-110 (Interest in City Business). This provision states that:

*...Unless sold pursuant to a process of competitive bidding following public notice, no elected official or employee shall have a financial interest in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City.*

Sec. 2-156-010(l) of the Ordinance defines “financial interest,” in relevant part, as any interest with a cost or present value of \$5,000.00 or more.

**ANALYSIS:** Under these provisions, then, City employees are prohibited from having a financial interest in the purchase of City property unless it is sold through a process of competitive bidding after public notice has been given. Assuming for purposes of this opinion that the reported assessed property value of “over \$5,000.00” is its “present value” within the meaning of Section 2-156-010(l), your purchase of the property would be prohibited under Section 2-156-110, unless sold pursuant to *public notice* and *competitive bidding*.<sup>1</sup>

It is the Board’s opinion that the property sold through the ANLAP procedures described above meet both these requirements of the Ordinance. Under ANLAP, city-owned vacant lots may only be purchased by the owner/occupier of the adjacent property—in this case, yourself and an owner/occupier of [1235 Avenue]. Therefore, public notice of the opportunity to purchase the vacant lot need only be given to those individuals who meet the requirements under ANLAP. The public notice requirement of the Ordinance was fulfilled when the Department of General Services sent the owner of the [1235 Avenue] property a letter informing him of your bid. At that point, the process of competitive bidding also began, as this individual, if qualified, could have also bid for the property. The fact that this individual was not qualified to bid is no more relevant than if he had been qualified to bid, but chose not to. The Board concludes that the [1234 Avenue] property is being sold pursuant to a process of competitive bidding following public notice, and that City employees are not prohibited from purchasing such property under Sec. 2-156-110.

Finally, although you have stated that as an employee of the Department of [ Y ], you have no occasion to be involved in any aspect of the ANLAP program, we caution you that under Sections 2-156-030(a) and 080(a), you would be prohibited from making, participating in making, or using your position with the City to influence any City decision or action relating to your purchase of the lot in question.

**DETERMINATIONS:** The Board determines that the Governmental Ethics Ordinance does not prohibit

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<sup>1</sup>The Board is not concluding or determining that a property’s “assessed value” is its “present value” for purposes of interpreting Sec. 2-156-010(l) and -110.

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your purchase of the [1234 Avenue] property under the ANLAP program. The Board's determination is based on the application of the Ordinance to the facts recited in this opinion. If the facts stated are incorrect or incomplete, please notify us, as a change in these facts may alter our conclusion.

**RELIANCE:** This opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

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Darryl L. DePriest  
Chair

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