

MEH



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[REDACTED] August 23, 1990

C O N F I D E N T I A L

ADVISORY OPINION

Re: Business Interest, Case No. 90043.A

Dear [REDACTED]

Thank you for your telephone call of [REDACTED]

[REDACTED] During that conversation, you stated that you are considering placing bids on pieces of City property, [REDACTED]

[REDACTED] You requested an opinion regarding the appropriateness of such conduct as a City employee. It is our understanding that the City [REDACTED]

[REDACTED], will be selling these properties pursuant to a system of closed bidding. [REDACTED]

Without revealing your name, we spoke with INDIVIDUAL A [REDACTED]

[REDACTED], regarding the general format of competitive bidding. We also confirmed that the two pieces of property identified above are being sold pursuant to a closed bid process. The sale is advertised in the newspaper for three consecutive weeks. Bids are received [REDACTED]

By INDIVIDUAL B [REDACTED] and are opened before a court reporter. The property is sold to the highest bidder without any consideration given to any other factor. The sale is then approved by the City Council.

Section 26.2-11 of the Governmental Ethics Ordinance provides, in relevant part:

No elected official or employee shall have a financial interest in his own name or in the name of any other person in any contract, work or business of the City or in the sale of any article, whenever the expense, price or consider-



ation of the contract, work, business or sale is paid with funds belonging to or administered by the City, or is authorized by ordinance. . . . 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. . . .

"Financial interest" is defined in Section 26.2-1(1) of the Ethics Ordinance as:

"(i) any interest as a result of which the owner currently receives or is entitled to receive in the future more than \$2,500 per year; (ii) any interest with a cost or present value of \$5,000 or more; or (iii) any interest representing more than 10% of a corporation, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company, receivership, trust, or any legal entity organized for profit."

Therefore, the Ethics Ordinance applies if the property which you wish to purchase has a present value or cost of more than \$5,000.00. For purposes of this opinion, we assume that the property constitutes a financial interest.

Section 26.2-11 allows an employee to have a financial interest in City property which is sold pursuant to a process of competitive bidding with notice to the public. Based upon the facts presented, we are of the opinion that the process by which this land will be sold is one of competitive bidding with notice to the public. Therefore, you will not be in violation of the Ethics Ordinance if you purchase this property by the process of competitive bidding with notice to the public.

Our decision in this matter is based on the facts as presented. If they are incorrect please notify us immediately, as any change in the facts may alter our decision.

I wish to take this opportunity to thank you for your inquiry. Most often the Board is placed in the position of enforcing the Ethics Ordinance once a violation has occurred. We appreciate the fact that you consulted with us and wish more employees would

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[REDACTED]

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seek our assistance when they have questions regarding the interpretation of the Ordinance.

If I can be of further assistance, please feel free to call me or Marilyn Hanzal.

Very truly yours,


Dorothy J. Eng
Deputy Director

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