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ADVISORY OPINION
CASE NO. 95001.E
STATEMENTS OF FINANCIAL INTERESTS

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Board of Ethics

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To:

Date: February 8, 1995

Re: Recycling Advisory Board

The Board of Ethics recently received from the Office of the Mayor a list of boards and commissions in the City of Chicago. The Recycling Advisory Board appeared on this list for the first time, prompting the Board of Ethics to consider whether members of the Recycling Advisory Board are required by the Ethics Ordinance to file Statements of Financial Interests.

The Board of Ethics determines that members of the Recycling Advisory Board are exempt from the Ethics Ordinance requirement to file Statements of Financial Interests as appointed officials. The reasons for this determination are as follows.

FACTS: The Recycling Advisory Board was created by a City Ordinance, called the "Chicago High Density Residential and Commercial Source Reduction and Recycling Ordinance" ("Ordinance"), which City Council enacted on November 5, 1993 to take effect on January 1, 1995. The Ordinance intends to achieve particular recycling goals in order to reduce waste and recover recyclable materials within the City of Chicago.

The Recycling Advisory Board is appointed by the Commissioner of Environment to assist in implementing the Ordinance. According to the Ordinance, the activities of this Board "shall be advisory in nature" (§11-5-026(c)), and include advising the Commissioner in preparing a public education and technical assistance program and a list of source reduction measures for commercial establishments.

, Recycling Coordinator for the Department of Environment, stated that the



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Recycling Advisory Board is "strictly advisory." He said that the Board meets every few months, goes over materials and gives comments. He also confirmed that the Board does not make binding decisions, does not enter into contracts, and makes no expenditures. The Board has no bylaws.

LAW AND ANALYSIS: Section 2-156-150(a) of the Ethics Ordinance states, in relevant part, that Statements of Financial Interests must be filed by:

each appointed official, except a member of an agency that is solely advisory in nature and has no authority to make binding decisions, to enter into contracts or to make expenditures, other than expenditures necessarily incurred for research in connection with its advisory functions...

In order to determine whether members of a new board or commission are exempt from the requirement to file Statements of Financial Interests as appointed officials, the Board of Ethics must first determine whether the agency in question is a City agency. If so, we must then determine whether the agency is solely advisory; and if the agency has authority to make binding decisions, to enter into contracts or to make expenditures.

The Recycling Advisory Board is clearly a City agency because it was created by City Ordinance. The Recycling Advisory Board is solely advisory, as indicated in the Ordinance and confirmed by 1. Finally, as provided by the Ordinance, this Board does not have authority to make binding decisions, enter into contracts, or make expenditures.

DETERMINATION: Based on these facts, it is our opinion that, for purposes of the Ethics Ordinance, the Recycling Advisory Board is a City agency that is solely advisory, and has no authority to make binding decisions, enter into contracts, or make expenditures. For these reasons, the Board of Ethics determines that the members of the Recycling Advisory Board are exempt from the Ethics Ordinance requirement to file Statements of Financial Interests as appointed officials.

Our determination in this case is based on the application of the Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion.

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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 that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

Catherine M. Ryan
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Chair

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