



CITY OF CHICAGO



BOARD OF ETHICS

January 18, 2024

Chair Martin, Vice Chair Hadden, and Honorable Members of the City Council's Committee on Ethics and Government Oversight:

It is my honor to testify before you today on proposals that would further limit and/or ban outright outside employment or business activity by City Council members. The Board takes an "agnostic" approach to such legislation, and defers to the City Council as to whether current laws should remain in place, or more restrictions or a prohibition should be enacted.

Currently, seven (7) members of the City Council have disclosed outside employment on their 2023 Statements of Financial Interests. The Board has examined these, and none presents any significant or inherent risk of corruption, conflicts of interest, or unethical behavior. Similarly, 11 City Council members have disclosed owning property in Chicago, in addition to their homes. But property ownership, or being a landlord, also does not *per se* present significant risks of conflicts of interest or unethical behavior. Rather, our ethics laws and personnel rules address the "dos and don'ts" for those City officials or employees who have such interests, rather than prohibiting them altogether. And, over the years, the list of those "don'ts" has been expanded, particularly with respect to City Council members.

Some history is in order: the Board has been advising City Council members on prospective and actual outside employment since our inception in 1987, and has advised thousands of City employees on outside employment as well. The Ethics Ordinance has long had provisions that, while not outright prohibiting City Council members from having outside employment, impose restrictions and prohibitions on a member's ability to use their position to benefit their outside employment or business interests. As I mentioned, these have been tightened over time. The City's "Improper Influence" and "Conflict of Interests; Appearance of Impropriety" provisions effectively prohibit them from using their City position or authority, or directing someone else to use their City position or authority, to advance the interests of any private outside business that employs them or their spouse, or which they or their spouse own in whole or in part.

Moreover, in 2019 and 2020, the City Council enacted further restrictions and prohibitions, banning any City Council member (or City Council employee or any City employee) from lobbying anywhere in Illinois on behalf of private clients, or from deriving any income or compensation from lobbying by others. And, in 2019, the City Council passed legislation making it illegal for City Council members to have any outside law or other practice that involves property tax appeals, or that would have any impact on the City's revenues or finances, or the health, safety or welfare of City residents. The Board has not yet had the opportunity to apply those provisions to specific fact situations—but once they were enacted, it became clear that any City Council with a real estate property tax abatement firm had to make a choice: stay in City Council and give that practice up, or leave the City Council and become a property tax abatement attorney. Later in 2019, the Board made it illegal for a City Council member to practice criminal defense law where that work would involve challenging the credibility of a member of the Chicago Police Department (following clear precedent from the Illinois Attorney Registration and Disciplinary Commission and Illinois Supreme Court), on the basis that this presented an inherent and irresolvable conflict between an Alderperson/attorney's competing fiduciary duties.

Put another way, I feel confident that the types of abuses Chicagoans have seen that stem from a City Council member's outside law practice, or, say, a consulting business, for example, are now flat-out prohibited by the Governmental Ethics Ordinance. City Council members must annually disclose, in their Statements of Financial Interests, which are publicly available, the source of any income exceeding \$1,000 that they derived or received in the previous year. I might well suggest more *frequent* disclosure, however—to require City Council members to disclose their *current* outside employment and compensation from it—every year, *in addition* to their Statements of Financial Interests, which cover only the previous calendar year.

That said, the Board of Ethics stands ready to administer and enforce whatever the City Council decides to enact. Chicago could become like Los Angeles, which has 15 City Council members and bans outside employment altogether, or like New York City, which has 51 City Council members and bans outside employment or income except for compensation for services rendered before the individual became a Council member, or for copyright royalties, or for artistic performances approved by their Conflicts of Ethics Board, or for teaching or, with the approval of the Corporation Counsel or Conflicts of Interests Board, other activities that involve minimal earned income and do not interfere with the performance of their duties. Or Chicago can remain in the same camp as Atlanta, Philadelphia, San Diego, San Francisco, Seattle or Washington, D.C., and continue to allow most types of outside employment, but with guardrails.

As my friend and colleague Alisa Kaplan posits—and I agree—following the lead of Los Angeles would indeed send a clear message. But it also could put a damper on activities that pose no significant ethics risks or problems, and may discourage qualified members of the business, trades, or professional communities from seeking elected office as an Alderperson.

I look forward to your questions.

Respectfully,

Steve Berlin, Executive Director