



BOARD OF ETHICS CITY OF CHICAGO

CONFIDENTIAL ADVISORY OPINION

June 22, 2021

City of Chicago

Chicago IL 606__

Re: Board Case No. 21018.A

Dear :

On June 7, 2021, your office emailed the Board a “Request for Finding of Governmental Ethics Ordinance Violation” in [case #] (“Request”). The subject is City of Chicago employee E , a in the Department of (“D”). Also provided was a video produced by and featuring E from [date] , through E’s “blog” . The Request asks that the Board issue an advisory opinion addressing whether E violated the Ordinance based upon the facts presented in these materials. Your office and Board staff communicated about the matter by email on June 7, 2021 and then by a virtual meeting on June 15. In response to the Request, the Board provides this advisory opinion.

FACTS

Video

For approximately seventeen (17) minutes, E is shown as he first welcomes viewers and then speaks about [another Illinois City, “IC”] [to supply certain goods and services] . IC’s choices are the City of Chicago or [an Indiana City] . He promotes the latter, primarily by discussing the City of Chicago’s government, including the D. He states that his opinions are based on his many freedom of information act requests to the D (his own City department). He suggests that IC have its [facility] . E states that E’s family, including E , has over the years been employed by the City. He states that he works for the D and is a State-licensed [tradesperson] . He wears a hard-hat helmet. The helmet’s front states “City [of Chicago ...] ”; each side of the helmet shows the Official City of Chicago Seal emblazoned on it. Behind him are an American Flag, a City of Chicago Flag, a podium, a microphone, a curtain, and the Official City of Chicago Seal.

It is this setting upon which our opinion is based.

The Request

Per the Request, we glean the following singularly important fact:

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On 2021, E posted an article on [his blog] titled "IC should give a contract to [Indiana City] . Chicago too corrupt," which included the video discussed above.¹

LAW, ANALYSIS AND DETERMINATION

The relevant law is §2-156-060 of the Governmental Ethics Ordinance, which states:

City-owned property. No official or employee shall engage in or permit the unauthorized use of any real or personal property owned or leased by the City for City business.

In Board Case No. 18036.A.1, the Board concluded that "[u]se of the seal by a City employee or official in any printed, filmed, or web-based communications to support a candidate for elected office would constitute a *prima facie* violation of the 'City-owned property' provision in the [Governmental Ethics] Ordinance [§2-156-060]." *Id.* 1. That opinion, in turn, adopts City law in §1-8-100 of the Municipal Code, which states:

Private use of seal unlawful. No person shall fraudulently forge, deface, corrupt, or counterfeit the seal of the city, nor shall any person, other than the duly authorized public official, make use of said seal ***"

Based upon its reading of §§2-156-060 and 1-8-100 together, in Case No. 18036.A.1, "the Board conclude[d] that the official seal of the City of Chicago may not be used by *anyone* in any printed, filmed, broadcast or web-based communication to support a candidate for elected City office ***" *Id.* 2 (emphasis in original).

Case No. 18036.A.1 is relevant here. Misuse of the City Seal is improper for the very real reason that it might mislead the viewing public. The City Seal is as deserving of protection here as it is in the election context. Therefore, we conclude that E's use of the City seal without authorization in a video he posted on the internet (on his blog and on YouTube) violated §2-156-060.

First, E was not using the seal for approved City business purposes. Without evidence that he had sought and received approval from his superiors, the Mayor's Office, or the Law Department, to use the Official Seal in his videos, the Board concludes that he had no authority to do so; indeed, he used the seal in conjunction with his statement of being a D employee while clearly using the seal for personal reasons.²

Second, this particular unauthorized use of the City seal on its face violates the City-owned property provision of the Ordinance for precisely the same reason such use is prohibited for electioneering purposes: it misleads the public. "Allowing any person... to use the City seal... supporting a candidate for City office, *unless the City were to explicitly allow it in individual instances*, presents a clear risk of misleading voters into believing the communications are official and/or that the city supports the person's candidacy." Case No. 18036.A.1 p. 2. (Emphasis in original.) In this case, that same analysis applies. The video prominently contains the City seal. A reasonable viewer watching and listening to E on the video *and seeing the City seal on the video* could well be confused, if not outright

¹ See <https://www.>

² See Board Case No. 18038.A.1 in which the Board addresses social media postings by City officials and, as part of that opinion, effectively equates for most purposes in the opinion the categories of political, campaign and electioneering content, social media accounts or websites with "personal" content, social media accounts or websites as distinguished from City or "official" content, social media accounts or websites. See, e.g., "Executive Summary" *Id.* 1

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misled, as to E's authority, and could reasonably conclude that the City of Chicago was in some manner approving this communication.³

Accordingly, the Board determines that the reasoning in Case No. 18036.A.1, in which the Board interpreted the Ordinance to prohibit anyone from using the City seal without authorization for electioneering purposes, applies here with equal force and could reasonably result in misleading the public. Therefore, the Board determines that E violated §2-156-060 of the Ordinance, based upon the facts presented.

Please note that this advisory opinion is based entirely on the facts set forth in the Request. Should additional facts be brought to our attention, our conclusions and determinations could change.

RELIANCE

This opinion may be relied upon by any person involved in the specific transaction or activity with respect to which this opinion is rendered.

William F. Conlon, Chair

³ Case No. 18036.A.1 *citing Harris v. City of Zion v. City of Rolling Meadows*, 927 F.3d 1401 at 1412 (7th Cir. 1991) (“The corporate seal of a municipality is plainly under government control and is a clear symbol of government power...and...acts as the City’s imprimatur for official correspondence, property and business.”)