

Gift to City

CONFIDENTIAL

July 13, 2007

[Mr. Jones]
Commissioner, Department of [P]

Chicago, IL 606

Re: Case No. 07037.Q

Dear Mr. Jones,

In a letter to me dated July 9, 2007, you explained that the Department of [P] is working on several initiatives that involve reusing excess construction material and waste. You asked whether, under the City's Governmental Ethics Ordinance, [P] may accept, free of charge, excess construction materials and waste (such as soils, stone, fencing, mulch, waste paint and waste plastics) for use in these initiatives from sister agencies (such as the Chicago Park District) and private companies. Some of these companies, according to [Ms. Smith], a [P] Deputy Commissioner, may be [P] or City vendors. Ms. [Smith] also asked staff whether the Ordinance would prohibit the [P] from re-giving donated materials that are not then needed to companies or persons who may be City vendors (i.e., acting, in essence, as an exchange agent of these materials).

On these facts, Board staff concludes that the City's Governmental Ethics Ordinance does not prohibit [P] from accepting these materials, or from acting as an exchange agent and re-giving them to other persons or companies (including City or department vendors).

However, consistent with previous Board opinions, and as staff advised Ms. [Smith] by telephone, acceptance of these materials should be treated as gifts accepted on the City's behalf. Under § 2-156-040(f) of the Ordinance, gifts accepted on the City's behalf must be reported to our agency and to the Comptroller's office. We therefore advise you to send our agency (and the Comptroller) written acknowledgments of receipt of these materials as gifts accepted by [P] on behalf of the City. The written acknowledgments should identify the donor(s) and describe the materials accepted. Depending on how frequently these materials would be accepted, [P] may, as discussed with Ms. [Smith], send these acknowledgments periodically and regularly (monthly or bi-monthly, e.g.) and attach database printouts describing the materials accepted.

Moreover, as we also explained to Ms. [Smith], Board staff advises you that nothing in the Ordinance prohibits [P] from acting as an exchange agent and re-giving donated materials that [P] would not need at that time to other persons or companies, including City or department vendors. (Note that there would be no corresponding requirement under the Ordinance to

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report to our agency the re-giving of unneeded materials to companies or persons.) This accepted material would become City property, and, under § 2-156-060 of the Ordinance, [P] may then use that property—including disposing of or re-donating it—if duly authorized to do so. Therefore, Board staff advises you to seek the advice from the City's Law Department regarding whether [P] already has sufficient authority, pursuant to relevant municipal ordinances, to engage in such transactions, or would be required to seek additional authority to do so. In addition, we also advise you, as a matter of policy, and because [P] and/or City vendors may be involved, to discuss both the acceptance and exchange of these materials with the Mayor's Chief of Staff.

Our conclusions address only the application of the City's Governmental Ethics Ordinance to your question. Other state, federal or City laws or policies may also apply. We appreciate your inquiry and your concern to abide by the standards embodied in the City's Governmental Ethics Ordinance. If you have any further questions, please contact me.

Yours very truly,

Steven I. Berlin,
Acting Executive Director

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