



CITY OF CHICAGO

BOARD OF ETHICS

**CONFIDENTIAL  
ADVISORY OPINION**

April 18, 2023

*Via Certified Mail, Regular Mail, and Email*  
[John Doe]

Chicago, IL 606

Re: Case No. 23034.A, Interest in City business

Dear [Mr. Doe]:

You are a [City] employee, currently serving as a [title]. On March 16, 2023, you emailed the Board of Ethics (the “Board”), stating that you are interested in purchasing property owned by the City, at [two addresses]. You would purchase this property through a corporate entity, [ABC], LLC (“ABC”), for which you serve as a manager and registered agent. You have a three (3%) percent ownership interest in [ABC]. [ABC] and the City would execute a Redevelopment Agreement. You have asked whether, under the City’s Governmental Ethics Ordinance (the “Ordinance”), completing this purchase would give you a prohibited financial interest in the purchase of City property. In this opinion we address (i) whether the proposed purchase would be prohibited by §2-156-110 (“§110”) of the Ordinance, entitled *Interest in city business*; but, if so (ii) whether there is an applicable exception in §110 that would allow the Redevelopment Agreement to be executed and the purchase to go forward.

**EXECUTIVE SUMMARY**

At our April 17, 2023 meeting, the Board considered the facts and relevant law, and has determined that [ABC] is *not* prohibited from entering into the Redevelopment Agreement with the City and may complete the purchase of the property, as it will be sold pursuant to public notice followed by competitive bidding, and thus would not give you a prohibited financial interest in the purchase of City property. Our analysis follows.

**FACTS**

On August 26, 2019, the City’s Department of Planning and Development (“DPD”) received a negotiated sale application to purchase the subject property from [NFP], Inc. (“NFP”), a nonprofit corporation, for which you are the named agent and, per its website, the president. The application proposed a redevelopment project that included the property identified above. [ABC] was then formed to purchase the property and carry out the project; you serve as a manager and agent for [ABC]. Publicly available documents from the Illinois Secretary of State’s office disclose that you are the agent for and a manager of [ABC]; there are several other managers listed in those documents. You and most other managers have the same last name and address. In addition, in the public records for [NFP] that same address is used for you as its named agent.

On [DATE] 2022, you filed Economic Disclosure Statements with DPD that disclosed the following with respect to ownership or beneficial interest in the purchase of the property: (i) [ABC] the applicant to DPD to accomplish the purchase; (ii) 85% of [ABC] is owned by [D] Trust; and (iii) over 7.5% of the beneficial interests in the trust are held by [NFP], [and three other individuals].

You wrote us that, on [DATE] 2022, [ABC] “applied to the City for the purchase of the land [and you] fully disclosed [your] employment with the City...” and you advised the City that you were “prepared to move forward [with the purchase] without receiving any financial assistance from the City after receiving [an] ethics determination that [you] could not receive more than \$1,000 in a calendar year” from a City grant for which [ABC] had previously applied. You have solely represented [ABC] in all communications with the City.

On [DATE], 2022, DPD began the purchase process. On [DATE], 2022, the Property was appraised for \$ 000. Soon thereafter, [ABC] submitted its bid of [the appraised value] for the property. After that bid, DPD advertised in a public notice the market-rate sale of the property, as published on [3 dates in] 2022 in the Chicago Tribune. DPD did not receive any alternative offers.

The notice contained the following components: (i) an invitation for proposals, identifying the specific addresses of the City-owned properties [ABC] intended to purchase; (ii) a statement of the City’s receipt of the [appraised value] offer from [ABC]; (iii) a statement that the offer was to purchase the property; (iv) a statement about the [NAMED] Redevelopment Area; (v) the purpose of the purchase; (vi) DPD’s desire to consider other proposals; (vii) a statement that the City may require Phase I or II Environmental Site Assessments; (viii) a City address for proposals; (ix) a date for proposal submissions; (x) a statement about the City’s consideration of proposals; and (xi) that DPD is an Equal Employment/Affirmative Action Employer.

On [DATE] 2023, the City’s Community Development Commission approved the purchase.

We assume that you have received all required approvals from [YOUR DEPARTMENT] regarding your ownership, operation or management of [ABC] (or any other entity in which you are named in public records, or conduct business, whether or not for profit, or participate as an agent or engage in ownership, operation or management) pursuant to City Personnel Rules XX and XXIX, and/or any applicable City or CPD rules.<sup>1</sup>

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<sup>1</sup> Further, we take notice that City Redevelopment Agreements contain the following provision (as you noted in your request to the Board for an advisory opinion):

**SECTION 20. CONFLICT OF INTEREST; CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.**

The Developer represents and warrants that no agent, official or employee of the City shall have any personal interest, direct or indirect, in the Developer, this Agreement, the City Property or the Project, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, association or other entity in which he or she is directly or indirectly interested. No agent, official, director, officer, trustee or employee of the City or the Developer shall be personally liable in the event of any default under or breach of this Agreement or for any amount which may become due with respect to any commitment or obligation under the terms of this Agreement. [emphasis added]

**RELEVANT LAW**

The following provisions of the Ordinance are relevant.

**2-156-110. Interest in city business**

(a) Except with respect to the participation of Eligible Persons in Eligible Programs, 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 consideration of the contract, work, business or sale is paid with funds belonging to or administered by the city, or is authorized by ordinance ...

(c) 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.

**2-156-010. Definitions**

(l) "Financial interest" means an interest held by an official or employee that is valued or capable of valuation in monetary terms with a current value of more than \$1,000.00 in any consecutive twelve-month period ...

**ANALYSIS**

(i) *Financial Interest in City Business*

The general rule under the Ordinance is that City employees, like you, are prohibited from having a “financial interest” in any work, contract, or business of the City, or in the purchase of any City-owned property, either in their own name, or in the name of another, such as a corporate entity in which they have an ownership interest. This prohibition applies to City-administered loan or grant programs, or to the purchase of City-owned property. A “financial interest” means any ownership interest that is valued at more than \$1,000 in any City contract, work, or business of the City.

However, the Ordinance contains a critical exception: it *does* allow City employees and officials to purchase City-owned property, such as real estate, if it is sold pursuant to public notice followed by competitive bidding. Accordingly, the question here is whether you are eligible for that exception. If you are, then nothing in the Ordinance would prohibit you or [ABC] from completing this purchase and redevelopment agreement.

(ii) *Public Notice and Competitive Bidding Exception*

The factual record before us shows that DPD publicly advertised the purchase on [3 DATES in] 2022 in the Chicago Tribune, and stated in that notice that [ABC] had offered to purchase the property, named [ABC’S] price, and requested alternative proposals from the public. DPD received none.

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The Board cannot address whether and how it applies in this situation; we urge you to consult with DPD and/or the City’s Department of Law as to how and whether this applies.

The Board has developed jurisprudence on this exception and it applies here. In Case No. 90043.A<sup>2</sup>, a City employee wished to purchase City property. The property was to be sold pursuant to a “closed bid” process, that is, after the City advertised the proposed sale in the newspaper for three weeks, it would accept alternative bids, which would be opened before a court reporter. The City would accept the highest bid. The Board found, based on those facts, that “the process by which this land will be sold is one of competitive bidding with notice to the public.” *Id.* at 2. The Board determined that the City employee would “not be in violation of the Ethics Ordinance if [they] purchase[d] this property by the process of competitive bidding with notice to the public.” *Id.*

In Case No. 93034.A<sup>3</sup>, the subject property was in a blighted area, which requires unique procedures before the City can sell it: (i) once there is an interested buyer(s) (in that case, some City employees), the property is appraised and the parties submit proposals at that fair market value; (ii) the City reviews the offerors to determine whether they are qualified as developers; (iii) the City publishes its resolutions to enter into negotiations with qualified developers; and (iv) it advertises these resolutions for two weeks, giving other interested parties 30 days to submit a proposal, including parties whom the City knew were interested. Thereafter, the commission handling the sale makes its final decision and recommendation to City Council and the Plan Commission, which each must approve the sale. The Board concluded, in that case, that “[c]ompetitive bidding refers to a process in which all parties submitting bids are treated equally and are bidding on the same terms and conditions.” *Id.* at 4. The Board then determined that the process for publication and bidding did constitute public notice followed by competitive bidding, and advised the City employees that they were not prohibited from purchasing of the City real estate for which they submitted bids and proposals. *Id.* at 4-5.<sup>4</sup>

In Case No. 00010.A<sup>5</sup>, a City employee wished to purchase City property pursuant to the Adjacent Neighbors Land Acquisition Program (“ANLAP”). ANLAP provides that, in certain areas of the City, people may purchase property from the City at less than fair market value. To qualify, the purchaser must own and occupy the property immediately adjacent to the vacant lot; the lot must be zoned residential; appraised value must be less than \$10,000; and the prospective buyer must not be delinquent in the payment of real estate taxes or any debt to the City. Upon receipt of a bid of at least \$300, the City sends notice to other property owners adjacent to the vacant lot, informing them of the bid, without an amount; and asking if there is interest in making a “sealed” bid within thirty days. All bids are then opened before a court reporter. The City Council may accept the highest bid or reject all bids. In this case, an employee submitted a proper bid; notice was sent to another neighbor; but that neighbor was not qualified to bid. Normally, a City employee would be prohibited from purchasing if the appraised value were over – then – \$5,000, now, \$1,000. In that case, the Board determined that the City employee could complete the purchase because: (i) a proper notice was sent; and (ii) a qualified neighbor could have proposed an alternative bid for the City to consider. *Id.* at 2.

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<sup>2</sup> [https://www.chicago.gov/dam/city/depts/ethics/general/AO\\_InterestCityBusiness/90043.A.pdf](https://www.chicago.gov/dam/city/depts/ethics/general/AO_InterestCityBusiness/90043.A.pdf)

<sup>3</sup> [https://www.chicago.gov/dam/city/depts/ethics/general/AO\\_InterestCityBusiness/93034.A.pdf](https://www.chicago.gov/dam/city/depts/ethics/general/AO_InterestCityBusiness/93034.A.pdf)

<sup>4</sup> Followed by Case Nos. 99033.Q; 06079.A (sale of taxicab medallions); and 08038.A (City’s Preserving Communities Together Program).

<sup>5</sup> [https://www.chicago.gov/dam/city/depts/ethics/general/AO\\_InterestCityBusiness/00010.A.pdf](https://www.chicago.gov/dam/city/depts/ethics/general/AO_InterestCityBusiness/00010.A.pdf)

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The facts in your situation most closely resemble those in Case No. 93034.A, discussed above: on [DATE] 2022 the City-owned real estate [ABC] proposes to purchase was appraised for \$ 000 and on [DATE] 2022 the real estate was advertised for [THE APPRAISED PRICE] revealing that your company, [ABC], had made the bid in that amount to DPD, after the appraisal, and before the advertisement. The notice requested other bids. DPD received none. Further, the Board's statement in Case No. 93034.A also applies here: "[c]ompetitive bidding refers to a process in which all parties submitting bids are treated equally and are bidding on the same terms and conditions."

Based on these facts, the Board concludes that the process the City has followed for the sale of the property to [ABC] constitutes "a process of competitive bidding following public notice," as specified in the Ordinance. Thus, you would not have a prohibited financial interest in the purchase of that property in your own name, or in the name of another, [ABC], and nothing in the Ordinance would restrict [ABC] and the City from completing this sale.

### **DETERMINATIONS; RELIANCE; RECONSIDERATION**

Determination. The Board determines that the proposed sale of the City-owned property located at [2 ADDRESSES] involves public notice followed by competitive bidding, and therefore the City's Governmental Ethics Ordinance does not prohibit either you or [ABC] from entering into the Redevelopment Agreement with the City, and completing the purchase.

Please note that this opinion addresses only the City's Governmental Ethics Ordinance. Other City or State laws, rules or policies may apply to your situation. In particular, we advise you to seek an opinion as to whether and how §20 of the Redevelopment Agreement impacts this proposed purchase.

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.

Reconsideration. This advisory opinion is based on the facts outlined in this opinion. If there are additional material facts or circumstances that were not available to the Board when it considered this case, you may request reconsideration of this opinion. A request for reconsideration must: (1) be submitted in writing; (2) explain the material facts and circumstances that are the basis of the request; and (3) be received by the Board within fifteen (15) days of the date of this opinion.

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William F. Conlon, Chair