



CITY OF CHICAGO

BOARD OF ETHICS

OPINION OF THE BOARD

In re: Case No. 23045.IG
June 17, 2025

Executive Summary.

This matter involves a hearing to enforce a series of \$20,000 in fines imposed by the Board of Ethics (“Board”) against Ald. James Gardiner (45th), a current member of the Chicago City Council (“Respondent”).¹ The hearing was conducted before a hearing officer in the City’s Department of Administrative Hearings (“DOAH”), the Honorable Frank Lombardo. Judge Lombardo transmitted his Report and Recommendations (“Report”) to the Board on May 15, 2025. The Board had assessed the fines in October 2023 against the Respondent after it determined that the Respondent committed ten violations of the City’s Governmental Ethics Ordinance (“Ordinance”), namely, five (5) violations each of two provisions: §§2-156-020 (Fiduciary Duty) and -060 (City Property). The Board imposed the maximum penalty in effect at the time, \$2,000 per violation, for a total of \$20,000 in fines. The Board’s determination and imposition of fines were based on a completed investigation by the Office of Inspector General (“OIG”), which the OIG transmitted to the Board for adjudication on June 6, 2023.

The Respondent exercised the right to appeal the Board’s decision and challenge the Board’s determinations in a confidential evidentiary hearing, pursuant to §§2-156-385 and -392 of the Ordinance. The hearing was completed, and Judge Lombardo issued his Report to us on May 15.

Accordingly, the Board issues this opinion pursuant to §2-156-392(a)(6) and (7) of the Ordinance. These sections provide that, within 40 days after a hearing on the merits conducted by DOAH:

“the Board [s]hall vote on the hearing officer’s recommendation, and shall issue a written opinion imposing a fine or stating that no violation has occurred ... [i]f the Board finds that no violation has occurred, it shall so state in its written opinion that includes an analysis of the evidence and the provision of this chapter at issue, and which opinion shall not, unless the respondent requests otherwise, include his name or position. The opinion of the Board shall be made publicly available.”

In his Report, the Hearing Officer concluded that:

“Based on the full record before me and for the above reasons, the City has failed to establish by a preponderance of the evidence that the Respondent is liable of [sic] any of the violations alleged and therefore: IT IS MY RECOMMENDATION THAT THE BOARD OF ETHICS FIND THAT THE RESPONDENT IS NOT LIABLE ON ALL COUNTS.” [emphasis in original]

Based on the record and for the reasons explained in this opinion, the Board is compelled to concur with the Hearing Officer and state that, based on the complete record now before the Board, and as contained in the Hearing Officer’s Report, the City failed to meet its evidentiary burden, and thus the Board finds that no violation has occurred.

¹ The Board is naming the Respondent in this Final Opinion at the Respondent’s request, pursuant to §2-156-392(a)(7) of the Governmental Ethics Ordinance.

Factual and Procedural Background.

This matter arises from a completed OIG investigation into the conduct in 2019 of the Respondent, a City elected official. On June 6, 2023, the OIG delivered to the Board the OIG's assumedly thorough and completed investigation. As a result of its investigation, the OIG concluded that the Respondent directed City employees to issue Department of Streets and Sanitation citations regarding the property of a constituent and critic of the Respondent, knowing that these citations would be unfounded.² In doing so, the OIG further concluded, Respondent improperly and without due authority used the time and services of other City employees for assistance, including Respondent's own aldermanic staff, and also improperly used the Respondent's own Ward Office and 311 City Services. The OIG concluded that Respondent thereby violated two (2) Ordinance sections: §2-156-020 (Fiduciary Duty) and -060 (entitled "City-owned property" at the time the alleged violations occurred; this section's title was changed to "Unauthorized use of City property," effective October 20, 2022). The evidence contained in the OIG's Report submitted to the Board on June 6, 2023 on its face substantiated these facts. The OIG requested that the Board find probable cause that Respondent had violated the Ordinance and adjudicate the matter, pursuant to §§2-156-385 and -392 of the Ordinance.

At its meeting on June 12, 2023, the Board voted unanimously that there was probable cause to conclude that Respondent committed violations of §2-156-020 and -060, and issued a confidential notice to the Respondent, explaining Respondent's rights to rebut this finding. The Respondent, together with his counsel, then met with the Board at its next three (3) consecutive meetings in August, September and October 2023, to attempt to rebut the probable cause finding.

At the Board's October 16, 2023 meeting, the Board, having carefully considered all the evidence before it, including Respondent's own statements to the Board in these meetings, voted unanimously to determine that Respondent committed five (5) violations of each of these two (2) Ordinance sections – a total of 10 violations – and to seek the maximum fine in effect at the time of the Respondent's conduct: \$2,000 per violation, for a total of \$20,000 in fines. Specifically, the Board determined that Respondent violated both Ordinance sections on the following dates, by:

1. June 21 and June 22, 2019, sending text messages to Respondent's Chief of Staff regarding verification of the critic's home address;
2. June 22, 2019, directing that other City employees, including the Ward Superintendent of a neighboring ward, issue Department of Streets and Sanitation citations with respect to the critic's property, knowing these citations would be unfounded;
3. July 14, 2019, sending and receiving text messages with an employee who reported to Respondent, and a Streets & Sanitation employee, regarding the critic's property;
4. July 14, 2019, authorizing other City employees to place an anonymous 311 call that consisted in a complaint about the critic's property, knowing the complaint would be unfounded; and
5. July 15, 2019, authorizing other City employees to place an anonymous 311 call that consisted in a complaint about the critic's property, knowing the complaint would be unfounded.

² There were two (2) citations issued against the property of Respondent's critic on June 22, 2019. The first was for failure to maintain a parkway and cited "weeds on property over 10 inches causing rodent problem," in alleged violation of §10-32-050 of the Municipal Code of Chicago. The second was for weeds in excess of 10 inches, in alleged violation of §7-26-120(A) of the Municipal Code of Chicago. Per the OIG's investigation, both citations were dismissed after a hearing before the DOAH on December 5, 2019. The OIG wrote that,

"in deciding the matter, the ... ALJ referred to the Merriam-Webster dictionary definition of 'weed' since it was not defined by the MCC. The dictionary defined it as any 'undesirable or uncultivated plant.' Since the plants [the constituent-critic] was cited for by the Ward Superintendent were intentionally purchased, planted, and grown by [the constituent-critic], the ALJ concluded they were not undesirable or uncultivated, and therefore not weeds, and found that [the constituent-critic] was not liable for the citations."

The parties could not agree to a public settlement of the matter, per §2-156-385. Hence, at its November 2023 meeting, the Board voted unanimously to ask the Corporation Counsel to pursue an administrative hearing to enforce its determinations and fines, pursuant to §§2-156-385(4) and (5). Based on the entire record then before it, the Board concluded that the evidence it was aware of then fully supported charging the Respondent with multiple violations of §§2-156-020 and -060. The Board then duly informed the Law Department, DOAH, and Respondent and Respondent's counsel of its decision. The Law Department retained an outside law firm to prosecute the matter. Relying on the OIG's completed investigation, and the evidence compiled in it, the City/Board of Ethics (called the "Petitioner" before the DOAH) then filed its statement of charges on February 9, 2024. The Respondent was charged with two (2) counts, consisting of nine (9) specific charges in total, not ten, as the Board of Ethics had found, each carrying a maximum fine of \$2,000.³

The Board did not actively participate in the hearing process.⁴ The administrative hearing commenced in November 2024, after a series of pre-trial motions, and concluded in March 2025.

Compliance with Section 2-156-392(a)(7).

Section 2-156-392(a)(7) directs that if the Board now concludes, after reviewing the Hearing Officer's Report, that it must find that no violation occurred "... [the Board] shall so state in a written opinion that includes an analysis of the evidence..." The evidence supporting the Board's finding herein of no violation is based on the evidence (evidence not available to the Board of Ethics) and processes described in the Report. To accurately capture the essence of the evidence, the Board attaches an appropriately redacted copy of the Report.

The Board's Conclusion.

Consistent with the direction of Section 2-156-392(a)(6) and (7) of the Ordinance, the Board of Ethics hereby must find the Respondent, Ald. James Gardiner, not liable on all counts brought in the Statement of Charges.



William F. Conlon, Chair

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³ Under §2-156-385(2), the prosecutor has the discretion not to file a charge if, in the prosecutor's judgment, the evidence in the case does not support the charge.

⁴ The Board here notes our reliance on the OIG's evidence-gathering in matters the OIG refers to the Board. The Board has no investigative authority; hence the Board must in all cases referred by the OIG rely on the OIG's report and accompanying evidence as the basis of the Board's initial finding of probable cause. The Board expects all OIG Reports to advise and present the Board of and with all evidence related to its submission. That evidence must include all evidence supportive of the proposed charges and, equally important and critical, evidence that is exculpatory or tends to disprove or challenge the OIG's conclusions. The Hearing Officer's Report states that the City moved to dismiss the charges before him because the City could not meet its obligation to serve exculpatory evidence from the OIG investigation "because additional potentially relevant material has been identified by the OIG and we [the City] cannot at this time meet discovery requirements." (Report at 7). The Hearing Officer goes on to correctly note there is no basis for the City to move to dismiss the charges after it has rested its case "based on the investigative body's failure or refusal to disclose to the [City] all exculpatory material in its possession from the investigation." (Report at 8).

The Board was not a party to nor did it participate in the proceedings upon which the Hearing Officer's Report is based; therefore, we do not have the complete context for the referenced comments. Nonetheless, we emphasize the importance of the Board of Ethics receiving all evidence—that supportive of the proposed charges, that which tends to disprove or challenge the bases of the charges, and that which tends to exculpate the respondent—when an OIG Report is transmitted to the Board. The Board remains enthusiastic to act on properly and fully documented and established acts of intimidation, overreach and improper use of office by City elected officials and employees.

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IN THE CITY OF CHICAGO, ILLINOIS DEPARTMENT OF ADMINISTRATIVE HEARINGS

<p>CITY OF CHICAGO BOARD OF ETHICS,)</p> <p style="text-align: right;">Petitioner,)</p> <p style="text-align: center;">v.)</p> <p>JAMES M. GARDINER, ALDERMAN)</p> <p style="text-align: right;">Respondent.)</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket: 23IG023045</p>
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HEARING OFFICER'S REPORT AND RECOMMENDATION TO THE BOARD OF ETHICS

BACKGROUND

Pursuant to Title 2-156 of the Municipal Code of Chicago (MCC), and Rule 4 of the Rules and Regulations of the Chicago Board of Ethics, on December 5, 2023, the Chicago Board of Ethics (Petitioner) notified the Corporation Counsel and the Chief Administrative Law Judge, that at its November 13, 2023, meeting, it had voted to pursue an action for a fine against Respondent, James M. Gardiner, Alderman of the 45th Ward and requested that a Merits Hearing be initiated pursuant to 2-156-392 of the MCC.

The Petitioner, through its duly appointed Special Corporation Counsel, [Law Firm 1], timely filed a Statement of Charges and the Respondent, represented by the law firm of [Law Firm 2], timely filed a written Answer and Affirmative Defenses to the Statement of Charges.

In its Statement of Charges, the Petitioner alleges two counts: 1.) that the Respondent breached his fiduciary duty owed to the public and to the City of Chicago four times in violation of section 2-156-020 of the MCC by planning with and using City employees and resources to have citations issued to a critic residing in his ward for conditions that he knew were in fact not violations of the MCC; and 2.) that the Respondent engaged in or permitted the unauthorized use of City property five times in violation of 2-156-060 of the MCC by using City employees, facilities, services,

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time, and resources to commence an improper administrative prosecution against a critic residing [near Respondent's office] for his own personal benefit and interest.

In his Answer and Affirmative Defenses, Respondent admits some of the factual allegations, and denies and demands strict proof thereof as to others. He asserts several procedural and disclosure deficiencies concerning the investigations leading up to the Petitioner's initiation of this Merits Hearing that he contends effects jurisdiction and his constitutional rights. The Respondent was afforded reasonable opportunity in his filings and during witness testimony to make and preserve a record of his constitutional arguments.

PROCEDURAL HISTORY

Pursuant to Case Management orders, after several months of Motions, and the parties participating in meet and confers on numerous occasions, it was Ordered that no prehearing Discovery would be allowed. It was also ordered that this body would issue witness Subpoenas as authorized by the applicable ordinances and rules.

Motions for subpoenas and objections thereto were filed and argued. Subpoenas were issued to witnesses for both parties.

It was agreed that, for judicial efficiency and economy and for the convenience of the subpoenaed witnesses, if the Respondent intended to call a witness subpoenaed by the Petitioner, then, in order to avoid additional hearing dates and to prevent the need for the witness to return on a separate date, the Respondent would conduct his direct examination of that witness after the conclusion of the Petitioner's examination.

The hearing commenced on November 18, 2024, and continued November 20, 2024, and December 9, 2024. The Petitioner rested its case on November 20, 2024.

On December 9, 2024, cross examination of Respondent's witness was delayed pending the Petitioner's production for an in-camera review of the report of an interview conducted by the Office of Inspector General (OIG) in December 2019 and /or January 2020 that was not previously submitted to Respondent. As testimony previously provided during the hearing indicated that interviews concerning the allegations were conducted by the OIG in late 2019 or early 2020, the cross-examination was held over to December 16, 2024, pending the in-camera review.

The Petitioner submitted to this body a report dated January 9, 2020, of an interview conducted by the OIG, and a review thereof concluded that it did not contain information relevant to the issues of the Merits hearing. The Petitioner was ordered to provide a redacted copy to Respondent and the unredacted report was made a part of the record, but the contents of the report would not be considered as evidence.

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Due to various scheduling conflicts, the December 16, 2024, date was reset to February 24, 2025. However, prior to that date, on January 9, 2025, the Respondent filed a Request to Supplement Witness List by adding [Witness 3], a witness that just came forward that could offer previously undisclosed evidence. The Petitioner did not object and the witness was added to the list. The Petitioner then filed a request to subpoena documents from [Witness 3]. The Request was denied but the Respondent was ordered to provide the Petitioner with any evidence that [Witness 3] provided that the Respondent intended to submit. On February 19, 2025, the Petitioner filed a Motion to Amend the Statement of Charges. The Motion was denied.

On Sunday February 23, 2025, the Petitioner filed a Motion to Continue Evidentiary Hearing asserting that with the new text message material provided by Respondent it had inquired further with the OIG regarding text messages relevant to this case. As recently as February 20, 2025, the OIG informed the Petitioner that it may have additional information or evidence relating to the text messages that were not previously provided to the Petitioner. The Petitioner contended that to ensure that all potentially exculpatory information has been produced to the Respondent, including anything relating to Respondent's additional witness, the scheduled hearings on February 24, 2025, and February 26, 2025, must be adjourned for the Petitioner to investigate what, if anything, additional is in OIG's possession.

The Motion to Continue was denied on February 23, 2025, but upon reconsideration on February 24, 2025, the Motion to Continue was Granted. The matter was scheduled for Case Management via Webex on March 10, 2025. On March 10, 2025, the matter was continued again to March 24, 2025, because the Petitioner "did not yet have access to information needed to determine whether or not it can be reviewed so we can determine whether it contains exculpatory information".

On March 24, 2025, the Petitioner stated that it could not meet its obligation to serve exculpatory evidence from the OIG investigation "because additional potentially relevant material has been identified by the OIG and we cannot at this time meet discovery requirement".

The Petitioner made an oral Motion to Dismiss the Statement of Charges filed on February 9, 2024; to have the confidentiality requirements imposed by ordinance and rule remain in force; and to have the matter taken off-call all as submitted in a proposed order.

On March 27, 2025, the proposed order was denied as submitted. However, the Motion to Dismiss the Statement of Charges filed on February 9, 2024, was Granted and the matter was taken off-call. The Petitioner filed a Motion for Clarification on April 2, 2025, seeking clarification that, "under the March 27, 2025, Order, the forthcoming Report from the Hearing Officer will not reflect any statements of fact or conclusions of law or recommendations:

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- a. regarding whether Respondent committed a violation as alleged in the Statement of Charges because the presentation of Respondent's case-in-chief and Petitioner's cross-examination and rebuttal case were not completed;
- b. setting forth any bad faith by the City in its prosecution of the above captioned matter or that the Statement of Charges was submitted or pursued in bad faith and was unsupported by the record because that determination, if any, is solely within the jurisdiction of the Board of Ethics pursuant to Section 2-156-392(c) of the MCC; and
- c. regarding the confidentiality of the matter except to refer determinations regarding confidentiality to the Board of Ethics pursuant to 2-156-400 of the MCC."

The Respondent filed his written objections to the City's Motion for Clarification on April 3, 2025.

In an order dated April 8, 2025, the City's Motion for Clarification was Denied; the order entered March 27, 2025, was to Stand as entered; and this report to the Board of Ethics as required and authorized by the applicable ordinances and rules was to be submitted.

STATEMENT OF CHARGES

The Statement of Charges was filed by the Petitioner on February 9, 2024.

Count one alleges that [Respondent] violated section 2-156-020 of the Municipal Code of Chicago four times by:

- a. Utilizing public employees for his own personal benefit and interest including to prosecute and target a constituent
- b. Planning, scheming, and directing an improper administrative prosecution against a constituent for his own personal benefit and interests, including to retaliate, harass and intimate the constituent
- c. Misusing City time and resources, including for an administrative prosecution driven by his own personal benefit and interests
- d. Exposing the City to liability for the improper prosecution of the constituent

Count two alleges that [Respondent] violated section 2-156-060 of the Municipal Code of Chicago five times in that he

- a. Misused public employees for his own personal benefit and interest including to prosecute and target a constituent
- b. Misused [his City] office for his own personal benefit and interest, including to prosecute and target a [resident]

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- c. Misused public services for his own personal benefit and interest, including to target a [resident]
- d. Planned, schemed or directed the commencement of an improper administrative prosecution against a [resident] through the use of City time and services and property, for his own personal benefit and interest, including to retaliate, harass and intimidate a constituent
- e. Misused City time and resources, including on an administrative prosecution driven by his own personal benefit and interests

The Petitioner requested that a report be issued finding that [Respondent] violated sections 2-156-02- and 2-156-060 of the Municipal Code of Chicago and recommending that a monetary fine of \$20,000.00 and other additional relief as just and proper be imposed.

It is unclear how the Petitioner arrived at the \$20,000.00 amount for the fine recommendation. Under section 2-156-465(b)(7) the fine range is \$500.00 to \$2,000.00 for each offense. The maximum fine for each of the nine offenses that the Statement of Charges alleges would total \$18,000.00.

TESTIMONY

The Petitioner called two witnesses, [Witness 1] and [Witness 2, the property owner] .

[Witness 1]

[Witness 1] worked on the campaign of [Respondent] prior to May 20, 2019, and, after [Respondent became a City official] on that date, she became a City employee as a [Title] for [Respondent] until November 2019.

[Witness 1] testified that prior to May 20, 2019, she observed and heard [Respondent] discuss with [Ward Superintendent 1], the Ward Superintendent for the [Ward] at the time, the writing of tickets for weeds violations for a property at [address of Witness 2] owned by a vocal critic of [Respondent]. [Witness 1] testified that she heard [Ward Superintendent 1] tell [Respondent] that the high weeds at the property were not weeds but were plants that [Witness 2] bought through a City program years ago. [Witness 1] further testified that about a week later, she observed and heard [Respondent] discuss with [Ward Superintendent 1] and [Ward Superintendent 2], who was [Respondent's] choice for Ward Superintendent for the [Ward] but not yet officially an employee of the City at that time, the writing of weeds tickets to [Witness 2]. [Witness 1] testified that she heard [Ward Superintendent 1] tell [Ward Superintendent 2] that the tickets had to come from someone else otherwise they would land on [Respondent].

[Witness 1] also testified that on June 21, 2019, [Respondent] texted her and asked "can I get [Witness 2's] address again". She testified that she sent [Respondent] the address on June 22, 2019, at 9:43 am.

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[Witness 1] further testified that on July 14, 2019, [Respondent] told her to take pictures in front of [Witness 2's] house and that she did what [Respondent] told her to do because he was her boss. She testified that she took photos in front of [Witness 2's] house on July 14, 2019, and texted them to [Respondent] and [Ward Superintendent 2]. [Witness 1] testified that she received a text response from [Respondent] of "wow" and from [Ward Superintendent 2] that "[Ward Superintendent 1] gave them \$900 in tickets that's not grass at some kind of plant or something that the city allows you to have I have make sure he's Dealt with".

[Witness 1] testified that she created and still owns the [official] Facebook page; that she wrote emails to [an employee] at the Board of Ethics to get permission to block [Witness 2] from the page because of a photo that [Witness 2] posted; that although she typed the email [Respondent] was standing over her telling her what to type; that [the Board of Ethics employee] ok'd the blocking of [Witness 2].

[Witness 2]

[Witness 2] resides within the Ward at [address] and is a vocal critic of [Respondent].

[Witness 2] testified that he does not like [Respondent's] behavior. [Witness 2] testified that he was blocked from the [Respondent's official] Facebook page and that on May 21, 2019, he hand delivered a letter to [Respondent] concerning being blocked, and that he was unblocked about three weeks later. [Witness 2] testified that he has no personal knowledge of who blocked him.

[Witness 2] testified that in September 2019 he received a Notice of Violation alleging weeds violations existing on his property on June 22, 2019. [Witness 2] testified that he and his wife maintain a native plant garden that was planted in 2011 based on a Department of Environment program to reduce storm water runoff. [Witness 2] testified that he and his attorney appeared on three separate hearing dates and that the case was dismissed as not liable. [Witness 2] testified that he has no personal knowledge of unethical or illegal activities of [Respondent] or concerning [Respondent's] involvement in the weeds case.

The Respondent called [Streets & Sanitation employee] and [OIG employee].

[Streets & Sanitation employee]

[Streets & Sanitation employee] is the [title] of the Department of Streets and Sanitation. [Streets & Sanitation employee] was a [managerial employee] of the Department of Streets and Sanitation during 2018 and 2019.

[Streets & Sanitation employee] testified that Ward Superintendents work in the Bureau of Sanitation and that they are on call 24/7 as needed. [Streets & Sanitation employee] testified that Ward Superintendents are recommended by the Alderman, and they report to the Division Superintendent. [Streets & Sanitation employee] testified that if a Ward had a vacancy the District Superintendent would make sure that someone was assigned to cover the Ward and that a Ward Superintendent from an adjoining Ward could be assigned to cover the vacant

ward's Superintendent duties. [Streets & Sanitation employee] further testified that it would not be uncommon for the Ward Superintendent from the Ward to cover in the

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Ward; that there were no documents that he was aware of that the Division Superintendent assigned the Superintendent from the ward to cover the ward.

[Streets & Sanitation employee] testified that a Ward Superintendent could issue a citation. He stated that the training is that Ward Superintendents issue warnings to give a chance to correct the issue and then give citations if not corrected. [Streets & Sanitation employee] testified that there is no rule stating that Ward Superintendents must issue a warning.

[Streets & Sanitation employee] testified that he is not aware of a policy that forbids Ward Superintendents from issuing citations outside his assigned ward while off duty. [Streets & Sanitation employee] also testified that it was required that complaints be entered into the 311 system; that the training is that every complaint goes into the 311 system.

[Streets & Sanitation employee] testified that the City has a definition of weeds; that one of the duties of the Ward Superintendent while surveying the ward is to check for weeds violations; that a ward survey should be done on a weekly basis.

[OIG employee]

[OIG employee] is an investigator with the Office of the Inspector General. He was assigned to the investigation of [Respondent] and interviewed [Witness 1] concerning the weeds citations and other matters.

[OIG employee] testified that the first time he interviewed [Witness 1] was in early 2020 at O'Hare Airport and that he took notes of that interview.

IN-CAMERA REVIEW AND CITY MOTION TO DISMISS

As the City had not disclosed the existence or nature of the Office of Inspector General report of an interview with [Witness 1] in early 2020, the City indicated that it would locate the report and submit it for an in-camera review to determine if anything relevant and material to this case was contained in it. Further examination of [OIG employee] was delayed to December 16, 2024, pending the in-camera review.

As described in the Background information above, no further testimony by [OIG employee] took place, [Witness 3] was added to the Respondent's witness list without objection from the Petitioner, and the Respondent was ordered to disclose to the Petitioner any evidence from [Witness 3] that Respondent would present at this hearing. The information provided to the Petitioner prompted the Petitioner to inquire further with the OIG, and the Petitioner moved to dismiss the charges because it could not meet its obligation to serve exculpatory evidence from the OIG investigation "because additional potentially relevant material has been identified by OIG and we cannot at this time meet discovery requirement".

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FINDINGS

The Order entered March 27, 2025, found that the Petitioner's dismissal of the charges negated the necessity for Respondent to present or complete the presentation of his case. However, as this Hearing Officer is unable to fully consider all the testimony and evidence that may have been presented had the Petitioner not dismissed the charges, a fair and impartial statement of facts and conclusions of law cannot be provided. Although a statement of facts and conclusions of law cannot be provided, there is no basis in the applicable ordinances or rules that would allow the City to investigate a subject, bring formal charges, conduct a full presentation of the merits of its case, and then dismiss the charges and avoid a recommendation on those charges. There is nothing in the applicable ordinances or rules that would allow the prosecution to dismiss its case after it has rested based on the investigative body's failure or refusal to disclose to the prosecutors all the exculpatory material in its possession from the investigation. On the contrary, Rule 4.2 (2) states that at any time after the Board's determination to pursue an action for a fine and before the hearing officer issues his report, the Board may dispose of the matter by settlement agreement. No notification of a settlement has been brought to this body's attention.

Section 2-156-020 states in full "Fiduciary duty. Officials and employees shall at all times in the performance of their public duties owe a fiduciary duty to the city."

The term "fiduciary duty" is not defined in Title 2-156 or in the Rules of the BOE. A review of Title 2-156 discloses that 2-156-020 falls under Article II Substantive Code of Conduct Provisions: Part 2 Conflicts of Interest and Improper Influence, and infers that the conduct that would be violative of 2-156-020 would conflict with the City's interest or would subject the City to less than the full benefit possible.

Section 2-156-060 states in full "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. City property is defined in section 2-156-101(e)-1 as "City property means any building or portion thereof owned or exclusively leased by the city or any city agency. City property does not, however, include any portion of a building that is rented or leased from the city or any city agency by a private person or entity". A review of Title 2-156 discloses that 2-156-060 also falls under Article II Substantive Code of Conduct Provisions: Part 2 Conflicts of Interest and Improper Influence and infers that the use of the property that would be violative of 2-156-060 would be for a non-official use that does not conform with its intended public purpose or confer its intended public benefit.

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RECOMMENDATION

Based on the full record before me and for the above reasons, the City has failed to establish by a preponderance of the evidence that the Respondent is Liable of any of the violations alleged and therefore:

IT IS MY RECOMMENDATION THAT THE BOARD OF ETHICS FIND THAT THE RESPONDENT IS NOT LIABLE ON ALL COUNTS

ALL PARTIES SHALL ABIDE BY THE APPLICABLE CONFIDENTIALITY REQUIREMENTS CONTAINED IN 2-56 AND 2-156 OF THE MCC AND IN THE RULES AND REGULATIONS OF THE CHICAGO BOARD OF ETHICS.

Entered:

Frank Lombardo
Administrative Law Judge

Frank Lombardo
May 15, 2025
Judge #49