



CITY OF CHICAGO

BOARD OF ETHICS

CONFIDENTIAL

[Date], 2022

[Recipient].

[Address]

[Address]

[Address]

Re: Case No. 22027.W

Dear [Recipient]:

Executive Summary. On [Date], you emailed our Executive Director, requesting that the Board: (i) review the activities you described that you wish to pursue after [your City service], to determine whether engaging in them would be restricted or prohibited under the post-employment provisions in the City's Governmental Ethics Ordinance ("the Ordinance"), namely §§2-156-100 and -105; and, (ii) if so, whether the Board would waive those restrictions or prohibitions, pursuant to §2-156-402 of the Ordinance.¹

¹ §2-156-100. Post-employment restrictions on assistance and representation. (a) No former official or employee shall assist or represent any person other than the city in any judicial or administrative proceeding involving the city or any of its agencies, if the official or employee was counsel of record or participated personally and substantially in the proceeding during his term of office or employment. (b) No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or employment, assist or represent any person in any business transaction involving the city or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract. (c) Nothing in this section shall be construed to restrict a former official's or employee's activities on behalf of, and while employed by, another government agency.

§2-156-105. Post-employment restrictions on lobbying. (a-1) Starting on January 1, 2014, an alderman shall be prohibited from lobbying the City of Chicago or any city department, board or other city agency for a period of one year after leaving that position. (a) Any person who serves as (i) a non-clerical employee of the Office of the Mayor, or (ii) a department head, shall be prohibited from lobbying the City of Chicago or any city department, board or other city agency for a period of two years after leaving that position. (b) Any employee who holds an exempt position in a city department, board or other city agency on or after May 16, 2011, other than a person described in subsection (a) of this section, shall be prohibited from lobbying the department, board or agency in which he or she was employed for a period of two years after that employment ends. (c) Any person who is appointed by the mayor to the board of any board, commission, authority or agency, on or after May 16, 2011, shall be prohibited from lobbying that board, commission, authority or agency for a period of two years after the date on which his or her service on the board ends. (d) The prohibitions on lobbying set forth in this section shall not apply to any person who (i) occupied the position before May 16, 2011, and (ii) resigned from that position before November 16, 2011. Nothing in this section shall be construed to prohibit a person from lobbying on behalf of, and while employed by, another government agency.

§2-156-402. Waivers. (a) When requested by a city official or employee, the board may grant a waiver from compliance with any of the following: (1) The gift restrictions in Section 2-156-142(a) to the extent they apply to

The Board carefully considered your request at its [Date] meeting. It has determined that: i) you are prohibited for one year from the effective date of your [termination from City service], from assisting or representing the two [non-profit] organizations you mention, in matters involving the City of Chicago or its agencies, employees, or officials, as described below, but are *not* limited from assisting them in matters that do not involve the City; and ii) your case for a waiver does not meet the criteria for waivers from post-employment restrictions that the Board has applied in past cases, and your request for a waiver is thus denied.

Facts. You have asked whether your proposed volunteer activity for two [non-profit] organizations, [Special Organization A] [(“A”)], and [Special Organization B] [(“B”)], would be permissible under the Ordinance’s post-employment provisions. A is situated in the [60th] Ward, while B is situated in [redacted], the 63rd. [Ward]²

In describing your proposed volunteer work for A, you stated that you were [an] “approving [person]” for a City microgrant contract with this organization. You attached a budget document to your email, showing 60th Ward [approving person]’s signature line, as the organization is located in the 60th Ward. But, you also stated that [the 63rd] Ward, over your signature, granted \$[xx] to A, but that the grant contract expires on [Date] 2022. You also said that you were the “approving [person]” of the contract, and [the 63rd] ward “defined the scope of work for that contract,” and that, under the rules for these grants, you, as [approving person], “have monitoring authority over the contract” and that representatives of the 63rd Ward would still have that authority after you leave City service. You wrote that, after you leave City service, you would like to volunteer for A and help solicit private, and, if available, City funds, as opportunities arise in the future.

In describing your proposed volunteer work for B, you stated that, as [a] 63rd Ward [approving person], you have worked since 20[] advocating to create a [facility] on the [X] , and that the City has allocated \$[yy] in [allocated] funds to do a [facility] study for the [facility]. Although you had no supervisory authority over the study, you said you advocated for it and provided feedback on its scope to ensure it complied with your discussion with Department [1] and [Department 2]’s wishes. The contract to perform the study was awarded by the City to architects and planners, but you said you were not involved in the awarding of this contract. You wrote that you would like to help raise private and public funds for the [facility], and that you would volunteer by providing information to the architects and planners, and that your participation is “very important to the [facility] study” as you are “one of the most knowledgeable people about this matter” in the City.

material or travel expenses for meetings; (2) The post-employment restrictions provided in Sections 2-156-100 and 2-156-105; (3) The interest in city business restrictions provided in Section 2-156-110; and (4) The restrictions pertaining to matters related to a city official’s or employee’s immediate former employer or client as provided in Section 2-156-111(d). (b) Any waiver shall be in accordance with rules adopted by the board, in writing and shall be made publicly available.

² See: [redacted]

Board Determinations.

Post-Employment Prohibitions. The Board considered your work on these matters while you were [in City service]

As to your work on the A contract, and your proposed volunteer service to A, the Board has determined that you did exercise “contract management authority” over it.³ Thus you are permanently prohibited from assisting or representing A as to the contract’s performance. This contract, however, expires [within one year of your last effective date of City service]. The Board also determined that you were personally and substantially involved in the subject matter of A’s City grant contract, and thus are prohibited for one year, i.e. until [Date], 2023, from assisting or representing A in any transaction involving the City relating to the administration, performance or interpretation of its City grant contract. You are also prohibited from “lobbying” the City on behalf of A or any other person for one year, i.e. until [Date], 2023.⁴ You are not prohibited, however, from assisting or representing A in fundraising from private sources, or from assisting or representing A in matters before any other governmental entity, such as the Chicago Park District or Chicago Public Schools.

As to your proposed volunteer work for B, the Board has determined that, while you did not exercise contract management authority with respect to the [allocated fund facility] Study contract while a[n approving person], you were personally and substantially involved in the subject matter of working with the City to create this [facility]. Thus, you are prohibited for one year, i.e. until [Date], 2023, from assisting or representing B in any work involving the City of Chicago or its employees, officials, or agencies that relates to the creation of this [facility]. (And, as with the A matter, you are also prohibited for one year from “lobbying” any City employees, officials, or agencies with respect to the creation of this [facility].) You are not prohibited, however, from assisting or representing B in fundraising from private sources, or from representing the organization before any governmental entity, such as the Chicago Park District.

Waiver Request. You have requested a waiver from any applicable post-employment prohibitions to enable you to assist or represent both A and B with respect to each of these organization’s City dealings. The Board carefully considered the appropriateness of granting you a waiver, applying the same standards it has used in analyzing previous waiver requests from the post-employment provisions. The Board has determined that waivers from these restrictions in each of these matters is not warranted or justified, and has denied your request.

While the assistance you would provide to A and to B would undoubtedly be important to each organization, and each organization’s mission is noble on its face and beneficial to the City and its residents, your expertise and experience are broad and extensive, and the work you would perform

³ §2-156-010 (g) "Contract management authority" means personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

⁴ The Board need not address the post-employment restriction on lobbying here, because it runs concurrently with and is fully covered by the one-year subject matter prohibitions to which you are subject as to both A’s City grant and B’s efforts, as each relates to the City of Chicago and its employees, officials, and agencies. Moreover, you would be a volunteer for these organization, which are both [non-profits], so the one-year lobbying ban would not apply in any event.

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as a volunteer for each organization is not of such a nature (unlike past waivers the Board has granted) that you are the only individual who could successfully and effectively fulfill those responsibilities, such that the public would suffer were the waiver not granted.⁵

The Board is also concerned that, given the work you have performed as a[n approving person], and the relationships you have established because of that work (namely your interactions with other City officials and employees on behalf of these organizations), granting you a waiver from the Ordinance's one-year subject matter prohibitions would not only provide an undue advantage to these organizations, but would also set a precedent enabling other organizations wishing to leverage the expertise and stature of former City officials or employees to their undue advantage.

We appreciate you bringing your questions to the Board, and wish you all the best in your post-City endeavors. If you have any questions, please reach out to our Legal Staff.

Sincerely,

William F. Conlon, Chair

⁵ In Board Case No. 19007.W, a waiver of the one-year subject matter prohibition was granted to a doctor as she would then be able to perform post-City work on a critical project in the specialized medical area for which her services were specifically requested; her work would otherwise have been prohibited under the Ordinance's one-year subject matter prohibition. The Board concluded that her work was compellingly in the public interest.

In Board Case No. 20021.W, the former City employee was granted a waiver of the Ordinance's one-year subject matter prohibition and allowed to work for the City's electronic business licensing contractor because, among other things, she was able to work with the City's software because she understood the City's business requirements and processes for these applications (which were designed for public use), the substantial public benefit that would accrue in alleviating any lag time that would necessarily occur were the contractor to be forced to train another to perform the task the former employee could perform immediately, her unique expertise in the City's and contractor's software and the dependent applications for public use, the City's relationship with her new employer, and the public's interest in ensuring that these applications operate smoothly and continue to meet and adapt to the public's demand in business licensing.