ALDERMANIC RECUSALS AND "RULE 14" ABSTENTIONS: A BRIEF GUIDE

Sometimes members of legislative bodies are prohibited by law from voting or even participating in discussions on matters pending before the body. Other times, members believe it appropriate not to vote on or participate in particular matters, even if they're not prohibited by law from doing so. The technical term for refraining from voting or participating in a matter is "recusal" or "recusing" from it, whether the recusal is required or voluntary. The City of Chicago has enacted laws and rules addressing recusals by its aldermen -- they require recusals under certain conditions, but also allow for voluntary recusals. This guide explains the procedures.

As with all publications from the Board of Ethics, this guide is not a substitute for confidential legal advice. If circumstances arise in which aldermen may wish to recuse themselves from matters or believe they may be required to recuse, we recommend consulting with the Board of Ethics. All Board advice and guidance is confidential per the City's Governmental Ethics Ordinance.

REQUIRED RECUSALS

Some recusals are required by law, specifically by §2-156-080 of the Governmental Ethics Ordinance. When aldermen are prohibited from participating in or voting on a matter pursuant to this law, they must file a written disclosure with the Board of Ethics and then: (i) cannot participate in *any* discussions on the matter with their colleagues or other City officials or employees in any Committee meeting or at any time; (ii) cannot chair the portion of a Council Committee meeting when that matter is considered; and (iii) must recuse from voting on the matter before the full Council or Committee. Note: the Board has no prescribed form for such recusals; please contact us for assistance.

So, just when are aldermen required by law to disclose to the Board of Ethics and recuse? There are two situations where the law requires written disclosure followed by formal recusal:

(i) The first is rare: if an alderman or alderman's spouse has a "financial interest" in a matter pending before a Council Committee or the full City Council that is distinguishable from that of the general public or all other aldermen, or the alderman has received any income or compensation from the matter in the preceding 12 months, or reasonably expects to in the following 12 months. It would happen if, say, Alderman Mary Doe or her spouse John owns all or part of a private business that is applying for a zoning change for its building. The Ethics Ordinance requires that, within 96 hours (4 days) of learning that such a matter will be presented before the full Council or any Council Committee, Alderman Doe must disclose to the Board of Ethics in writing "in detail the nature of such business relationship or compensation." (An email to the address below, or a fax, is fine.) The Board posts these on our website immediately upon receiving them, here: https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/alderrecusals.html.

(ii) The second is a bit more common: if an alderman, or the alderman's spouse, or a private business in which either of them have an ownership interest, has received or expects to receive income or compensation from the person, firm, or organization with the matter pending, within the preceding 12 months, or reasonably expects to receive it within the following 12 months, or has an ownership interest in the persons with the matter. This provision applies, for example, when a client of a law firm in which Alderman Doe is a partner/owner has a matter pending before the Council or a Council Committee. As in the first situation, Alderman Doe must file a written disclosure with the Board, by email or fax, (they're posted immediately upon receipt at the address above) within 96 hours (4 days) of learning of the matter's pendency.

In both situations (i) and (ii) above, Alderman Doe may not participate in any informal or formal discussions on the matter nor chair the portion of a Committee meeting where it is brought up, and must recuse from any votes on it.

Note: required recusals described above pertain to a recent amendment to the Ethics Ordinance: if Alderman Doe chairs a Council Committee, she gets three (3) "free" such recusals in a 12-month period, but if a *fourth* recusal is required during the same period, she must eliminate the potential conflict of interest (perhaps by dropping the client) or give up her chair.

VOLUNTARY, NON-REQUIRED RECUSALS

There are many *other* times when aldermen feel they should recuse from matters, but are *not* required by law to do so. These are "Rule 14" disclosures or recusals handled by the Office of the City Clerk, and are named for City Council Rule of Order 14. Examples include:

- ♦Alderman Jones recuses from a matter pending before the Council's Zoning Committee (and full Council) because his nephew's law firm represents the applicant;
- ♦Alderman's Doe's good friend's business has a matter pending before a Council Committee;
- ♦Alderman Jones's spouse works for Northwestern University, which has a grant matter up for vote.

In these kinds of instances, recusals are not required by law. They are voluntary. If they are sent to the Board we post them. Rule 14 disclosures are handled by the Office of the City Clerk, which ensures they are published in the Journal of Council Proceedings, which is on-line here:
http://www.chicityclerk.com/legislation-records/journals-and-reports/journals-proceedings

A note on terminology: all of these recusals (those required by the Governmental Ethics Ordinance *and* those submitted voluntarily under Rule 14), have become known informally as "Rule 14 recusals." But, more precisely, *only* those that are *not* required by law but are voluntary are true "Rule 14" disclosures.

In sum, if an alderman *must* recuse by law, because the alderman has a financial interest in the matter or has received or expects to receive income or compensation from the matter, or from the person with the matter (or the alderman's spouse has, or a business that either of them own has), then the disclosure must, by law, be made to the Board of Ethics, which posts them on line immediately. It could also be made to the City Clerk's Office. All *other* disclosures or notices of recusal are made per Rule 14 to the City Clerk's Office (and sometimes also to the Board of Ethics), but these are not required by law. The City Clerk ensures they are published in the Journal of Council Proceedings.

www.cityofchicago.org/Ethics

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