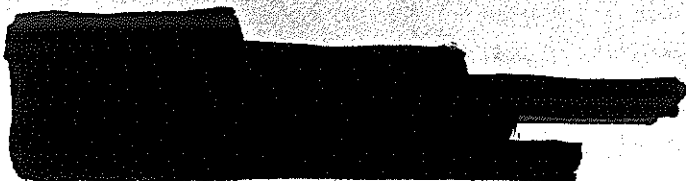


MBH

February 13, 1991

C O N F I D E N T I A L



Re: Case No. 91022.A
ADVISORY OPINION

Dear [REDACTED]

In your letter of January 10, 1991, you asked the following questions:

1. Would a person's obtaining contractor prequalification status with the City of Chicago without taking any further action constitute "seeking to do business" under Municipal Code Section 2-156-010(x)?
2. Would Municipal Code Section 2-164-040(b) apply to a joint venture entity?

QUESTION 1:

In response to your first question, the City of Chicago's Department of Purchases, Contracts and Supplies does not have a prequalification status for contractors. In order to answer your question more fully, we would need more specific information about the particular City Department involved.

QUESTION 2:

The remainder of this letter will address your second question. Subsection (a) of § 2-164-040 of the Campaign Financing Ordinance establishes the \$1,500 limit on campaign contributions from those doing or seeking to do business with the City. Subsection (b) states:

For purposes of subsection (a) above, an entity and its subsidiaries, parent company or otherwise affiliated companies, and any of their employees, officers, directors and partners who make a political contribution for which they are reimbursed by the entity or its affiliates shall be considered a single person. However, nothing in this provision shall be construed to prohibit such an employee, officer, director or partner from making a political contribution



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for which he is not reimbursed by a person with whom he or she is affiliated, even if that person has made the maximum contribution allowed under subsection (a).

Based on the legal definition of joint venture, the Board views joint ventures as partnerships for the purposes of § 2-164-040(b). In a recent case (No. 90060.A) the Board determined that partners of a partnership that is doing or seeking to do business with the City may make unlimited contributions from personal assets provided the partner is not reimbursed by the partnership. The same applies to the partners of a joint venture.

The question that remains is the following: If, for example, Partner A of a joint venture, and not the joint venture itself, is doing business with the City, would the joint venture itself or Partner B be limited in their contributions?

In regard to Partner B of the joint venture who is not doing business with the City, the Board determines that his or her contributions should not be limited. This conclusion is based on the reasoning that an individual partner is not limited when his or her joint venture is doing business with the City. In the same light, the status of Partner A, as doing business with the City outside of the joint venture, does not limit Partner B in his or her contributions. However, because anonymous and pseudonymous contributions are prohibited, Partner A, the partner doing business with the City, may not make political contributions through Partner B or any other individual.

The second part of the question asks if Partner A's status as doing business with the City has an effect on the contributions of the joint venture itself. This would depend on the nature of the City business of the individual partner and the nature of the work of the joint venture. If the two are completely unrelated, then the joint venture would not be limited in its contributions. As with any person doing business with the City, Partner A is prohibited from channeling political contributions through the joint venture. However, if the City business of Partner A is in any way related to the work of the joint venture, then the situation should be brought to the Board for its determination. If the work of any individual partner benefits the work of the joint entity, then the Board will carefully review the particular facts to determine if the joint entity itself might be seen to be doing business with the City.

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CONCLUSION: The Board views a joint venture as a partnership for the purposes of § 2-164-040(b). Partners of a joint venture that is doing business or seeking to do business with the City are allowed to make unlimited contributions as long as they are not reimbursed by the joint venture. Moreover, if one partner of the joint venture is doing or seeking to do business with the City, his or her status does not limit the contributions of the other partners. Additionally, the status of a partner as one who is doing or seeking to do business with the City does not limit the contributions of the joint venture itself, unless the City business of the partner and the work of the joint venture are related. Such instances should be presented to the Board.

We thank you for your inquiry. Enclosed are the standard procedural rules which we provide with every advisory opinion. If you have any additional questions, please feel free to contact us.

Very Truly Yours,



Albert Hofstad
Chairman

Enclosure

cc: Kelly Welsh
Corporation Counsel

91022.L

NOTICE OF RECONSIDERATION AND RELIANCE

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 the opinion. A request for reconsideration must (1) be submitted in writing, (2) explain the material facts or circumstances that are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this opinion.

Reliance: This advisory opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.