

MEH

September 26, 1988



City of Chicago
Eugene Sawyer, Mayor

Board of Ethics
Harriet McCullough
Executive Director

Sol Brandzel
Chair

Mary Milano
Vice Chair

Margaret Carter
Angeles Eames
Rev. A. Patterson Jackson
Marlene O. Rankin

Suite 530
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

Case Number 88113.A

CONFIDENTIAL

Dear

On September 14, 1988 the Board of Ethics convened to render an opinion on the circumstances of your inquiry. You stated that the Department of Economic Development (DED) is currently working with a private developer to create an industrial park within the City and that this developer has retained the services of the law firm "X" to represent them in negotiations with the DED. It is our understanding that the spouse of ^{an employee} of the DED is a member of the law firm "X". ^{The spouse is in no way involved in negotiations with his/her spouse's City department. His/Her area of practice within that law firm is not related to the area of negotiations.}

If the circumstances remain the same as described above, the staff opinion delivered to you on August 10th prevails. That is, based on the fact that ^{the employee's spouse} is neither involved in these negotiations as an employee of the private developer negotiating with the DED nor a party to any contract with this developer, the ^{employee's} negotiations would not appear to violate the applicable sections of the Ethics Ordinance.

Thank you for your attention to the Ethics Ordinance. If we can be of further assistance on this or any other matter please do not hesitate to contact our office.

Sincerely,

S. Brandzel
Chairman

EC





City of Chicago
Eugene Sawyer, Acting Mayor

Board of Ethics
Harriet McCullough
Executive Director

Paul Brandzel
Chair

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Vice Chair

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Chicago, Illinois 60606
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8.8113.A MEH

August 10, 1988

[REDACTED]

CONFIDENTIAL

Dear [REDACTED]

You recently requested an opinion from our office concerning a possible conflict of interest involving an employee of the Department of Economic Development (DED). You stated that the DED is currently working with a private developer to create an industrial park within the City and that this developer has retained the services of the law firm of [REDACTED] to represent them in negotiations with the DED. It is our understanding that the spouse of the employee [REDACTED] of the DED is a member of the law firm [REDACTED] but that [REDACTED] is in no way involved in negotiations with the [REDACTED] City department and that [REDACTED] area of practice within that law firm is not related to the area of negotiations.

These circumstances pose the following question: Would it create a conflict of interest prohibited under the Ethics Ordinance for an employee [REDACTED] of the DED to negotiate with attorneys of a Chicago law firm on a matter concerning City business if the employee's [REDACTED] spouse is an attorney with this same law firm?

As conveyed to you by phone, our research staff does not believe that these circumstances involve a conflict of interest prohibited under the Ordinance.

There are five sections of the Ordinance which are potentially relevant to this case, Section 26.2-3, 26.2-8(a), 26.2-9(a), 26.2-11 and 26.2-13, though none of them would appear to be violated by the circumstances you describe.

Section 26.2-3 and 26.2-8(a) prohibit an employee from attempting to influence governmental decisions on matters in which he or she has an



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economic interest distinguishable from that of the public. Section 26.2-9(a) prohibits an employee from representing or having an economic interest in representation of other persons before City agencies. Section 26.2-11 prohibits an employee from maintaining a "financial interest" in City business. These four sections which are designed to prevent and prohibit conflicts of interest only apply to a City employee or official if he or she maintains an "economic interest" or (in the case of 26.2-9(a)) a "financial interest" in decisions made by the City. In the Ordinance, the terms "economic interest" and "financial interest" are defined to exclude "any interest of the spouse of an official or employee which interest is related to the spouse's independent occupation, profession or employment." Under these definitions, the *employee* ██████████ of the DED could not be said to have an "economic" or a "financial" interest in negotiations with the City purely by virtue of *the spouse's* employment with a firm whose other members represent clients before the City. Consequently, these sections cited above which place restrictions on employees who have an economic interest in City business would not apply to *the employee.*

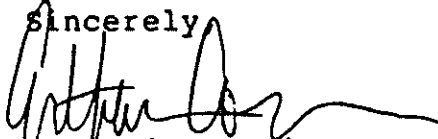
There is one other section of the Ordinance which might apply to the circumstances you describe. Section 26.2-13(b) states that "no official or employee shall exercise contract management authority where any relative of the official or employee is employed by or has contracts with persons doing City work over which the City official or employee has or exercises contract management authority." In the circumstances you describe, the *employee* ██████████ would exercise responsibilities in negotiating with a private developer which might be considered aspects of "contract management authority" as this term is defined in Section 26.2-1(f) of the Ordinance. However, since *the spouse* is neither involved in these negotiations as an employee of the private developer negotiating with the DED nor a party to any contract with this developer, the *employee's* negotiation would not appear to violate this section. It should be emphasized that this opinion is based on the assumption that the *employee's* ██████████ *spouse* has no part in the negotiation with the DED and that *he/she* does not in any way assist the attorneys who are involved in such negotiations. Moreover, we are assuming, based on the information you provided, that the *employee's* *spouse* works within a group of attorneys whose area of practice is distinct from that of the attorneys who serve the developer in negotiations with the DED. If this information is accurate, it is our staff's opinion that no provision of the Ordinance would prohibit the *employee's* ██████████ role in the negotiations you describe purely in virtue of *the spouse's* professional practice as an attorney.

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[REDACTED]
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The Board of Ethics meets monthly on every second Tuesday. At the September meeting, the full Board will review your case. Subsequent thereto, you will receive a formal opinion from the Chairman of the Board confirming this staff recommendation. If circumstances change which might be relevant to this opinion, please contact our office. We appreciate your inquiry.

Sincerely



Ertharin Cousin
Deputy Director

[REDACTED]/JH/ckh