

MEN



City of Chicago  
Richard M. Daley, Mayor

October 24, 1990

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

[REDACTED]

Board of Ethics  
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Margaret Carter  
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RE: 90062.A  
ADVISORY OPINION

Dear [REDACTED]

[REDACTED] you telephoned the Board of Ethics staff and explained your situation with regard to a Department of Housing loan. After reviewing the matter, the Board has decided to recommend that you be allowed to continue your participation in the City's loan program if possible.

After receiving your call, the staff spoke with you as well as employees from the DOH and obtained the following facts.

**FACTS:** You have been an employee of the City for many years. [REDACTED] you purchased a house [REDACTED] and applied for and received a section 312 rehabilitation loan from the Department of Housing ("DOH") for [REDACTED] to rehabilitate your home.

We learned through the DOH that the section 312 loan is funded by the federal government (through HUD) but the City grants the loans and administers the funds. To obtain this loan, you submitted [REDACTED] a verification of employment with the City and a City of Chicago payment statement. The loan specifications were completed [REDACTED] and the rehabilitation loan agreement was signed in 1988. [REDACTED]

The DOH requested bids for the rehabilitation construction job and chose a contractor to perform the work. The contract for the rehabilitation work was signed in 1988. [REDACTED] The contractor who was chosen was slow in making the necessary repairs, so an extension was granted to complete the work. It was then determined that his work was unacceptable. He did not complete the job and was subsequently terminated.

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The DOH inspected the home and provided completion specifications which included substantial repairs needed to correct the work of the terminated contractor. The DOH then relet the job for bids and recently chose a new contractor.

If the Board of Ethics approves your continued participation in the City's loan program, the DOH is willing to attempt to restructure the present loan or locate other additional funds. These funds are apparently necessary to cover the new contractor's bid for completing the work, much of which is required due to the poor performance of the terminated contractor.

When temperatures dropped [REDACTED] you called the DOH requesting the funds to repair your heating system which was not functional. [REDACTED] you were told by [REDACTED]

INDIVIDUAL A

[REDACTED] that due to recent decisions of the Board of Ethics, he could not, under the Ordinance, authorize expenditures for the rehabilitation project. You then asked for a ruling from the Board.

**LAW:** The applicable section of the Governmental Ethics Ordinance prohibits a City employee from having a financial interest in a contract when the money for the contract is administered by the City. § 2-156-110 (prior code § 26.2-11). "Financial interest" is defined in the Ethics Ordinance as "(i) any interest as a result of which the owner currently receives or is entitled to receive in the future more than \$2,500 per year; (ii) any interest with a cost or present value of \$5,000 or more; or (iii) any interest representing more than 10% of a corporation, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company, receivership, trust, or any legal entity organized for profit." § 2-156-010 (1) (prior code § 26.2-1(1)).

**ANALYSIS:** In previous cases, the Board has determined that section 312 rehabilitation loans to City employees are prohibited by the Ordinance. See Case Nos. 90028.A, 90029.A, 90033.A & 90040.A. Even though the section 312 loan money comes from the federal government through HUD, an employee is prohibited from participating in this loan program because the City administers the funds. The cases cited above addressed two issues: City employees' participation in the Homestead Program and participation in the section 312 loan program administered by the City. In those cases, the Board concluded that City employees could not participate in either program because it constituted a financial interest in City business. However, the Board reasoned in those cases that since these employees had not concealed their

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City employment and had expended considerable effort and money participating in the Homesteader program, the principles of equity necessitated the Board's recommendation to allow the City employees' continued participation.

The facts of this case, like the facts in the cases cited above, show that you never concealed your City employment. In the process of applying for the section 312 loan, you produced employment verification and pay statements indicating that the City was your employer. In addition, you expended *much money* on rehabilitation work, which was improperly done, and the project is still incomplete. Now because additional funds are required to complete the project, either the present loan issued to you in 1988 must be restructured or you will have to obtain a new loan.

But for the first contractor's poor work, this issue would not be before the Board and your home rehabilitation would be complete. Under the circumstances, just as in previous cases presented to the Board, the law must be considered in light of the principles of equity and justice.

Copies of this opinion with our recommendation are being sent to the DOH so they are aware of our ruling.

We thank you for bringing this matter to our attention. If you have any questions, please call us.

Sincerely,

  
Albert Hofeld  
Chairman

90062.L1

cc: [REDACTED]  
[REDACTED]  
[REDACTED]

Kelly Welsh, Corporation Counsel  
Department of Law