

MEH

March 15, 1991

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

[REDACTED]

City of Chicago
Richard M. Daley, Mayor

Board of Ethics

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Executive Director

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Catherine M. Ryan

Room 303
320 North Clark Street
Chicago, Illinois 60610
(312) 744-9660

Re: [REDACTED]
Case No. 91021.A
ADVISORY OPINION

Dear [REDACTED]:

On January 8, 1991, you requested a determination from the Board of Ethics regarding [REDACTED] INDIVIDUAL A, A MEMBER OF COMMISSION X [REDACTED] and a member of COUNCIL Y [REDACTED] who has a mortgage loan from the Department of Housing [REDACTED]. You told us that your department received a notice from the U.S. Department of Housing and Urban Development ("HUD") regarding this situation. You asked this Board to render an advisory opinion as to whether INDIVIDUAL A violated the provisions of the Governmental Ethics Ordinance. It is our understanding that INDIVIDUAL A applied for and received the Housing Department loan during his tenure with COMMISSION X [REDACTED] and the COUNCIL Y [REDACTED]. You also stated that he has contracts with the City.

This letter briefly sets forth the facts as they have been presented to us, and our analysis of the situation in relation to the relevant provisions of the City's Ethics Ordinance. Because we have limited facts, this advisory opinion can only address the general situation you described rather than any particular individual.

FACTS: You explained to us that on [REDACTED], INDIVIDUAL A received a [REDACTED] mortgage loan from the Housing Department as part of a DEPARTMENT PROGRAM [REDACTED] in order to rehabilitate a [REDACTED] rental property [REDACTED]. That loan is now [REDACTED] under review by HUD. At the time of the loan (and at the present) INDIVIDUAL A was a member of the COMMISSION X [REDACTED], as well as a member of COUNCIL Y [REDACTED]. In addition, he is the president



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of a [REDACTED] company, [REDACTED],
[REDACTED] which does business with the City.

APPLICATION OF THE ETHICS ORDINANCE: First, an individual's membership on [REDACTED] is not relevant to our determination. The Board previously determined that [REDACTED] is not a City agency, as defined by the Ethics Ordinance [REDACTED]. Therefore, a person's membership on [REDACTED] does not render him subject to the City of Chicago Ethics Ordinance. [REDACTED], however, is a City agency, and its members [REDACTED] are subject to the Ethics Ordinance as it applies to "appointed officials." [REDACTED]

The remaining issues, then, are whether or not a member of [REDACTED] would be in violation of the Ordinance in accepting a Department of Housing loan, or in receiving City contracts.

The sections of the Ordinance relevant to this situation relate to Financial Interest in City Business, Improper Influence, and Conflicts of Interest.

FINANCIAL INTEREST IN CITY BUSINESS (§ 2-156-110, prior code § 26.2-11)

This section prohibits elected officials and employees from gaining a "financial interest"--defined as more than \$2,500 per year or a lump-sum payment of \$5,000 or more--in City business whenever that payment is derived from City funds. In the case of "appointed officials," such an interest is not prohibited if the matter is "wholly unrelated" to their City responsibilities. This section reads:

No elected official or employee shall have a financial interest in his own name or in the name of any other person in any contract, work or business of the City or in the sale of any article, whenever the expense, price or consideration of the contract, work, business or sale is paid with funds belonging to or administered by the City, or is authorized by ordinance. . . . No appointed official shall engage in a transaction described in this section unless the matter is wholly unrelated to the official's City duties and responsibilities.

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As an appointed official, a member of COMMISSION X [REDACTED] would be prohibited from having a financial interest in City business only if some relation could be established between the subject matter of his financial interest and his duties as a member of the Commission.

Upon inquiry, the Board could establish no relation between the duties of a member of COMMISSION X [REDACTED] and either a Department of Housing loan or the City contracts of a private business. [REDACTED]

[REDACTED]

Therefore, during the period in which the City loan in question was applied for and received, the responsibilities of members of COMMISSION X [REDACTED] would appear to have been wholly unrelated to the subject matter of Housing Department loans. The responsibilities of Commission members also would appear to have been wholly unrelated to the awarding of City contracts to private businesses. Given this general situation, the monetary benefit that a Commission member would gain by virtue of a Housing Department loan or by a City contract is not prohibited by § 2-156-110 of the Ordinance. However, if a relationship were to exist between the Commission and either Housing Department loans or the awarding of City contracts, a violation of the Ordinance might exist.

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IMPROPER INFLUENCE (§ 2-156-030, prior code § 26.2-3) and
CONFLICTS OF INTEREST (§ 2-156-080, prior code § 26.2-8)

According to these sections, a City official is prohibited from influencing any governmental decision in which he or she has a special economic interest. They read in relevant part:

No official or employee shall make, participate in making or in any way attempt to use his position to influence any City governmental decision or action in which he knows or has reason to know that he has any economic interest distinguishable from its effect on the public generally. (§ 2-156-030)

No official or employee shall make or participate in the making of any governmental decision with respect to any matter in which he has any economic interest distinguishable from that of the general public. (§ 2-156-080)

As previously stated, during the period in question, the responsibilities of members of COMMISSION X [REDACTED] would not appear to include affecting governmental decisions with regard to Housing Department loans or City contracts. Were such influence to exist, it could constitute a violation of the Ordinance.

CONCLUSIONS: Based on the information received and the limited facts available to us, it is the Board's determination that a member of COMMISSION X [REDACTED] under the circumstances described would not have violated the provisions of the Governmental Ethics Ordinance. We cannot, however, make a determination as to whether [REDACTED] INDIVIDUAL A) in particular may or may not have violated the Ordinance, as we do not know the specific facts of the particular circumstances that existed at the time in question. Please be advised that there may be other regulations which apply to his situation. The appropriate agency to contact with regard to any other applicable laws would be the City's Law Department.

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Thank you for bringing this matter to the attention of the Board. A separate sheet is enclosed, which sets forth the procedural rules of the Board after it renders a decision. If you have any further questions relating to this issue, please do not hesitate to contact the Board office at 744-9660.

Sincerely,

Albert Hofeld
Chair

encl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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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.