



SIB
(Redaction revised 12/14/98)

January 22, 1991

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

City of Chicago
Richard M. Daley, Mayor

[REDACTED]

Board of Ethics

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

Re: [REDACTED]; Case No. 90050.A

ADVISORY OPINION

Dear [REDACTED]

The Board of Ethics received your request over the telephone for an advisory opinion on two lobbying-related matters. You were recently appointed to (1) A TASK FORCE ON MATTER A [REDACTED]

(2) AND AN ADVISORY COMMISSION [REDACTED]. You asked whether your involvement with these projects constitutes lobbying. The Board determined that your activities with regard to AN ORDINANCE CONCERNING MATTER A prior to your appointment to the task force constituted lobbying, but that your work with the [REDACTED] Advisory Commission does not constitute lobbying.

FACTS: (1) [REDACTED] Ordinance: In your [REDACTED] letter to the Board, you stated that [REDACTED] INDIVIDUAL A [REDACTED] had asked (ASSOCIATION X, [REDACTED]) to assist his staff with a [REDACTED] ordinance. You stated in your letter that while the Association does not have an official position on the [REDACTED] Task Force, the Association has been asked to "provide/solicit member participation on the Task Force, give commentary on various phases of the Task Force's work and otherwise assist in the process."

In a subsequent telephone conversation, you stated that prior to the formation of a task force, members of the Association had expressed concerns to INDIVIDUAL A [REDACTED] about the [REDACTED] ordinance introduced by him [REDACTED]. As a result, you and others met with INDIVIDUAL A [REDACTED] to voice these concerns and proposed changes on behalf of ASSOCIATION X. These concerns dealt with the costs and obligations the ordinance would



[REDACTED]

impose on the members as manufacturers of products. [REDACTED] He then formed the [REDACTED] Task Force to draft a substitute ordinance for his consideration. INDIVIDUAL B of the COMMITTEE or [REDACTED] stated that the Task Force was composed of representatives of government, environmental groups, and affected industries [REDACTED]

You explained to us that INDIVIDUAL A asked you to assist the Task Force, but did not give you a formal position on the Force. Your role is to provide information of various sorts to the Task Force [REDACTED] and represent the viewpoints of businesses that would be affected by the legislation, but which were not otherwise represented on the Task Force. INDIVIDUAL B confirmed this.

(2) [REDACTED] Advisory Commission: In addition, INDIVIDUAL C has asked you to serve on the [REDACTED] Advisory Commission (the "Commission") and sit on its Executive Committee. In conversations with the staff, you stated that the Commission was established by INDIVIDUAL C.

[REDACTED]

INDIVIDUAL D of DEPARTMENT R [REDACTED] indicated that the Commission was formed by INDIVIDUAL C.

[REDACTED] As the name suggests, the Commission does not have any contract management authority or final decision-making power. Other Commission members include [REDACTED]

ISSUE: Whether your involvement with these projects constitutes lobbying under the Governmental Ethics Ordinance?

ETHICS ORDINANCE: §2-156-210 (prior code §26.2-21) of the Ethics Ordinance requires all lobbyists whose lobbying-related compensation or expenditures aggregates \$5,000 or more in the preceding or current calendar year to register annually and file disclosure reports semi-annually with the Board of Ethics.

As defined in §2-156-010(p) (prior code §26.2-1(p)) of the Ordinance, a "lobbyist" is any person:

- (i) who for compensation or on behalf of any person other than himself undertakes to influence any legislative or administrative action; or (ii) any part

[Redacted]

of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

"Legislative action" and "administrative action" are defined in §§2-156-010(o) and (a) (prior code §§26.2-1(o) and (a)), respectively:

"Legislative action" means the introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto or other official action or non-action on any ordinance, resolution, motion, order, appointment, application or other matter pending or proposed in the City Council or any committee or subcommittee thereof.

"Administrative action" means a decision on, or any proposal, consideration, enactment or making of any rule, regulation, or any other official non-ministerial action or non-action by any executive department, or by any official or employee of an executive department, or any matter which is within the official jurisdiction of the executive branch.

Certain persons and entities are specifically exempt from lobbyist registration and reporting by §2-156-220 (prior code §26.2-22) of the Ordinance. Among those exempt are:

(b) Officials and employees of the City of Chicago, or of any other unit of government, who appear in their official capacities before any City agency for the purpose of explaining the effect of any legislative or administrative matter pending before such a body.

(c) Persons who, by reason of their special skills or knowledge of any matter pending before any City agency are requested in writing by (i) a member of the City Council to appear before the City Council, or a committee or other subdivision thereof, to discuss such matter; or (ii) the Commissioner, Director, or Chairman of another City agency to appear before that agency to discuss such matter; regardless of whether such persons receive compensation for so appearing. This exemption shall apply only to the extent that such persons appear in the foregoing capacity. If such persons also engage in activities for which this Article otherwise requires them to register, they shall so register for those activities.

[REDACTED]

ANALYSIS: (1) [REDACTED] Ordinance: By going to INDIVIDUAL A and representing the concerns of the members of your Association, you were involved in seeking to influence [REDACTED] legislation. Under the Ordinance, such conduct constitutes lobbying.

Therefore, since you are presently a registered lobbyist, your activities with regard to the [REDACTED] ordinance must be reported on your semi-annual lobbyist report (Form 25). Because you are required to report these activities with regard to the [REDACTED] ordinance, the Board did not consider your service as an appointee to the Task Force in coming to its decision.

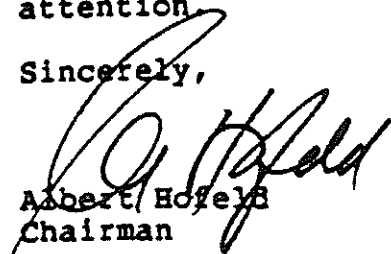
(2) [REDACTED] Advisory Commission: As described by you, INDIVIDUAL D, [REDACTED], and a press release [REDACTED], the purpose of the [REDACTED] Advisory Commission is to promote [REDACTED] A CERTAIN PROJECT. The targets of this promotion will be CONCERNED PARTIES, NOT INCLUDING CITY COUNCIL. [REDACTED] According to INDIVIDUAL D the members of the Commission will not be involved in influencing administrative or legislative action on behalf of the City of Chicago. Given these facts, the Board determined that the members of the Commission will not be lobbying.

The Board determined that your activities on the [REDACTED] Advisory Commission do not constitute lobbying.

CONCLUSION: While you will need to supplement your Registration form by including your lobbying on the [REDACTED] ordinance, there is no need to include your efforts on the [REDACTED] Advisory Commission, as your service did not constitute lobbying under the Ordinance.

If you have any questions, please feel free to contact us. We include a form which sets forth procedural guidelines for all Board opinions. Thank you for bringing these two matters to our attention.

Sincerely,


Albert Hofeld
Chairman

Enclosure

cc: [REDACTED]
Kelly Welsh, Corporation Counsel