



A conservation area is defined as an area that “by reason of dilapidation, obsolescence, deterioration or illegal use of individual structures, overcrowding of structures and community facilities, conversion of residential units into non-residential use, deleterious land use or layout, decline of physical maintenance, lack of community planning, or a combination of these factors, may become ... a slum...” 315 ILCS 30/3(m) (West 1996). A conservation plan is defined as a comprehensive program for the physical development of a conservation area embodying the steps required to prevent a conservation area from becoming a slum and blighted area. 315 ILCS 30/3(n) (West 1996).

After a city’s Department of Urban Renewal establishes a conservation plan, the Conservation Community Council must approve the plan before it is submitted to the municipality for final approval. 312 ILCS 30/21 (West 1996). The Conservation Community Council must also approve proposed amendments to the conservation plan before the Department of Urban Renewal submits the amendments to the municipality for adoption, according to [Michael, a City employee].

The City does not have a Department of Urban Renewal: instead, the nine-member Community Development Commission assumed all the rights, powers, duties, and obligations of the Department of Urban Renewal. Chicago Municipal Code, § 2-124-020(b). The Department of Planning and Development provides staff support to the Community Development Commission. Chicago Municipal Code, § 2-124-020(a).

The Community Development Commission may recommend to the City Council that the City acquire real property; clear acquired areas; renovate, rehabilitate, or relocate acquired buildings; relocate, construct, and/or install streets and utilities; resell, transfer, or convey any interest in the acquired property; relocate persons as necessary; enter into cooperative agreements; make loans and grants; borrow money; issue bonds; adopt taxes; and exercise eminent domain. Chicago Municipal Code, § 2-124-030(a).

The Community Development Commission is also charged with preparing a plan for each conservation area. Chicago Municipal Code, § 2-124-050. The plan is a comprehensive program for the rehabilitation and physical development of an area and may include, but is not limited to, proposals regarding land use; street and alley improvements; public and private utility location; community facilities; landscaping and site improvement; public transportation; building restrictions; new construction and demolition of old construction; density issues; opens space; maintenance standards; zoning; financial details for funding; timetables for projects; relocation of residents; environmental issues; and landmark issues. Chicago Municipal Code, § 2-124-010(e). As noted above, this plan and amendments to this plan must be approved by the area’s Conservation Community Council prior to its presentation to the City Council.

There are six Conservation Councils in the City, including one for [Maple     ]. These councils receive no funding from any source, including the City, and all members serve without pay, according to [Michael, a City employee]. [Michael             ] selects the chairman and the members of the Conservation Community Councils. 315 ILCS 30/21 (West 1996).

In 1991, the Board of Ethics determined that, for purposes of the Ethics Ordinance, Conservation Community Councils were “not City agencies.” Case No. 91039.A, p. 2. The Board explained that these councils were “more akin to community organizations rather than units of the government.” Therefore, when [John     ] serves as chairman of the [Maple     ] Council, he is not serving as an appointed City official.

Empowerment Zone Council. The Empowerment Zone/Enterprise Community program combines Federal funds and tax incentives to create jobs and reinvigorate communities. Under this 10-year program, six Empowerment Zones receive \$100 million in federal monies in the form of social service block grants, federal tax credits for businesses located within the Empowerment Zone that employ residents of the Zone, accelerated depreciation for capital equipment purchased by Zone businesses, and new tax-exempt bonds. In December 1994, the federal government selected Chicago as one of six cities eligible for Zone funding. Chicago has designated three Empowerment Zones: they are the South Cluster, West Cluster, and Pilsen/Little Village Cluster. They do not include [Maple     ].

Under this same federal legislation, 65 Enterprise Communities were designated to receive three million dollars in social service block grants. Although Chicago submitted the names of three proposed Enterprise Communities ([Maple, Oak, and Ash             ]) to the federal government, none were selected for funding. Therefore, [Maple, Oak, and Ash] have no access to federal funding earmarked for Enterprise Communities. However, these neighborhoods may seek state funding through the Empowerment Zone Council for similar community service and business development, according to [Mary, a City employee ].

The federal grant program mandates that an Empowerment Zone Council be created. The Empowerment Zone Council advises the City and other government bodies on: (1) allocating federal funds awarded to the City for the three Empowerment Zones; (2) providing social and other services; (3) redevelopment activities including land acquisition and demolition; (4) creative financing tools to support plan implementation; (5) using State and local government funds for Empowerment Zone Council programs; and (6) developing an annual budget for the use of funds. Chicago Municipal Code, § 2-151-050. Empowerment Zone Councils are also responsible for assessing how the programs are carried out; monitoring all funds allocated to the Empowerment areas; preparing quarterly reports; promoting collaborative activities; seeking potential new participants; and reviewing and making recommendations on all applications for Empowerment funds to the City Council. The City Council makes the final decision as to which programs will be supported with Empowerment funds. Chicago Municipal Code, § 2-151-050.

Thirty-nine members make up the Empowerment Zone/Enterprise Community Coordinating Council. They represent residents living in the Empowerment Zone, residents living in the Enterprise Communities, businesses located within either or both the Empowerment Zone and Enterprise Communities, government agencies, not-for-profit agencies, philanthropic agencies, the education community, and any other unrepresented community operating within the Zone and Community. Chicago Municipal Code, § 2-151-020. Under City ordinance, there must be at least three resident-representatives of the Enterprise Communities on the Empowerment Zone Council even though the proposed Enterprise Zones were not selected for federal funding. Chicago Municipal Code, § 2-151-020(1). [John ] is a resident-representative of [Maple ], according to [Mary, a City employee.]

All members of the Empowerment Zone Council are nominated by either the community or [Michael ]. Chicago Municipal Code, § 2-151-020. Members are appointed by [Michael ] with the consent of the City Council. Chicago Municipal Code, § 2-151-020. Members on the Empowerment Zone Council are not paid for their work.

Unlike members of the [Maple ] Council, Empowerment Zone Council members file statements of financial interests with the City and are appointed City officials, subject to the Ethics Ordinance. Chicago Municipal Code, §§ 2-156-010(q), (b); § 2-156-150(a)(iii); *See also*, Rule 1, Code of Ethics of the Chicago Empowerment Zone/Enterprise Community Coordinating Council which provides that members of the Empowerment Zone Council are subject to the Governmental Ethics Ordinance. Therefore, [John ] is an appointed City official.

## LAW, ANALYSIS, AND DETERMINATIONS

QUESTION 1      Does the Ethics Ordinance prohibit [Michael ] from appointing one person to represent a community on two different councils?

You questioned whether the Ethics Ordinance prohibits [Michael ] from appointing one person to represent a community on two different councils. In this instance, one of the councils is not considered a City agency and its members are not appointed City officials under the Ethics Ordinance. The Ethics Ordinance does not prohibit [Michael ] from appointing one person to represent a community on two different councils. However, in this situation, a problem arises because [John ]'s representation of the [Maple ] Council before the City's Community Development Commission is not wholly unrelated to his duties and responsibilities as a member of the Empowerment Zone Council. (See discussion below.)

QUESTION 2      Is [John ] required to resign from either the [Maple ] Council or the Empowerment Zone Council?

You asked whether [John ] is required to resign from either the [Maple ] Council or the Empowerment Zone Council. The Ethics Ordinance does not specifically prohibit appointed City officials from serving on other, non-City councils or boards. Therefore, the Board concludes that [John ]'s appointment to the Empowerment Zone Council as the representative of the [Maple ] community and his appointment as chairman of the [Maple ] Council does not, in itself, violate the Ethics Ordinance. However, Section 2-156-090 of the Ethics Ordinance does prohibit [John ] from representing the [Maple ] Council before the Community Development Commission.

As noted above, by virtue of his service on the Empowerment Zone Council, [John ] is an appointed City official. Therefore, he is subject to the standards of conduct the Ethics Ordinance imposes upon all appointed City officials. Section 2-156-090 of the Ethics Ordinance provides:

**2-156-090. Representation of Other Persons.**

- (a) No elected official or employee may represent, or have an economic interest in the representation of, any person other than the City in any formal or informal proceeding or transaction before any City agency in which the agency's action or non-action is of a nonministerial nature; provided that nothing in this subsection shall preclude any employee from performing the duties of his employment, or any elected official from appearing without compensation before any City agency on behalf of his constituents in the course of his duties as an elected official.
- (b) No elected official or employee may have an economic interest in the representation of any person, in any judicial or quasi-judicial proceeding before any administrative agency or court in which the City is a party and that person's interest is adverse to that of the City.
- (c) No appointed official may represent any person in the circumstances described in subsection (a) or (b) unless the matter is wholly unrelated to the official's duties and responsibilities.

Section 2-156-090(c) of the Ethics Ordinance prohibits [John ], as an appointed City official, from representing any person in any “formal or informal proceeding or transaction before any City agency in which the agency’s action or non-action is of a nonministerial nature” unless the matter is “wholly unrelated” to his City duties and responsibilities.

This Board has interpreted representation to mean acting as a spokesperson or advocate for another; seeking to communicate and promote the interests of one party to another; making telephone contact with City employees and officials on behalf of another; submitting written requests and proposals to City agencies, employees, or officials on behalf of others; signing any proposals, contracts, or other documents that are submitted to City agencies; and preparing contracts. Case Nos. 88142.A and 93045.A.

For the reasons outlined below, the Board concludes, that if [John ] continues to serve as chairman of the [Maple ] Council and a member of the Empowerment Zone Council, Section 2-156-090(c) prevents him from carrying out one of the most basic tasks of the chairman of the [Maple ] Conservation Community Council -- representing the [Maple ] Council before the City’s Community Development Commission.

First, the Board notes that the Community Development Commission, developed after the City merged the Commercial District Development Commission and the Urban Renewal Board, is a City agency whose action is of a “nonministerial nature.” Chicago Municipal Code § 2-156-090(a); Memorandum of Board of Ethics Executive Director Dorothy J. Eng to the Board of Ethics, adopted, April 10, 1991. The Community Development Commission makes recommendations to the City Council about acquiring real property; clearing acquired areas; renovating, rehabilitating, or relocating acquired buildings; relocating, constructing, and/or installing streets and utilities; reselling, transferring, or conveying any interest in acquired property; relocating residents; entering into cooperative agreements; making loans and grants; borrowing money; issuing bonds; adopting taxes; and exercising eminent domain. Chicago Municipal Code, § 2-124-030(a). These activities are nonministerial.

Second, as chairman of the [Maple ] Council, [John ] acts as its chief administrative officer. [Maple ] Conservation Community Council By-laws, Art. II, § 2. As its chief administrative officer, [John ] would be expected to present the [Maple ] Council’s position to the Community Development Commission on numerous issues, according to [Michael, a City employee]. Presenting the [Maple ] Council’s position could take the form of signing documents or stating the council’s position to the Community Development Commission at commission meetings. Clearly, these activities fall within the meaning of “represent.” Chicago Municipal Code, §§ 2-156-090(a), (c).

Finally, the matters on which [John ] would be asked to represent the [Maple ] Council are not “wholly unrelated” to his duties and responsibilities as a member of the Empowerment Zone Council. As its chairman, [John ] would represent the [Maple ] Council in presentations of its position on proposals including, but not limited to, acquiring and developing real property; installing streets and utilities; entering into cooperative agreements; developing or improving community facilities; landscaping the neighborhood; developing better public transportation; and addressing density, zoning, and open space issues. Essentially, he would represent the [Maple ] Council on community development matters. This representation is not wholly unrelated to [John’s] duty, as a member of the Empowerment Zone Council, to vote on how monies and other resources should be expended to provide social and other services; aid business development; acquire and demolish land; and develop creative financing tools for [Maple ] -- essentially, community development matters.

Therefore, although the Ethics Ordinance does not prohibit [John ] from serving on both the [Maple ] Conservation Community Council and the Empowerment Zone/Enterprise Community Coordinating Council, the Board concludes that as an appointed City official [John ] cannot represent the [Maple ] Conservation Community Council before the Community Development Commission.

We recognize that [John’s ] duties in his dual capacities may mutually support one another, rather than conflict. However if [John ] serves on the Empowerment Zone Council, he is an appointed City official and is subject to the restrictions imposed upon all appointed City officials, including the prohibition against representing a person, other than the City, in any formal or informal proceeding or transaction before any City agency, in which the City agency’s action or non-action is of a nonministerial nature, unless that matter is wholly unrelated to the official’s City duties and responsibilities.

## **RELIANCE**

Our determination in this case is based on the application of the City’s Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other laws or rules also may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance.

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This opinion may be relied upon by any person involved in the specific transaction or activity with respect to which this opinion is rendered and 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.

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Darryl L. DePriest, Chair  
City of Chicago Board of Ethics

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