



City of Chicago
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Board of Ethics

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Room 303
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March 9, 1992

CONFIDENTIAL

[REDACTED]

*Non-Profit
service*

RE: Case No. 92012.0
Outside Employment

Dear [REDACTED]:

On [REDACTED] 1992, we received your letter requesting an opinion of whether the City's Ethics Ordinance prohibits you from serving on the [REDACTED] X Board of Directors. The staff is of the opinion that the Ordinance does not specifically prohibit you from accepting the directorship; however, it does severely restrict your ability to perform the duties required of you as a director and could preclude you from performing you City duties.

The reasoning is set forth below and is based upon the materials that you included with your letter and our telephone conversation of [REDACTED] 1992.

During our telephone conversation, you explained that you serve the City in two capacities, as the [REDACTED] of the Department [REDACTED] and as the Chair of the [REDACTED] Panel for the [REDACTED]. As the [REDACTED] of the Department [REDACTED], you supervise several divisions, including the Division of A [REDACTED] and the Division of B [REDACTED].

You stated that as both the Chair of the [REDACTED] panel and the [REDACTED] of the department, you are in a position to affect governmental decisions with regard to [REDACTED] X matters. Specifically, as [REDACTED] of the Department [REDACTED], you make decisions regarding City [REDACTED]. X's [REDACTED] Annual Report shows that [REDACTED] X has obtained [REDACTED]. As such, they are required to apply to the City [REDACTED] and appear before divisions A & B.



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With regard to [REDACTED] you explained that through the program the City [REDACTED]. The [REDACTED] panel, which you chair, reviews the applications of those who wish to obtain [REDACTED] and determines which of the applicants shall receive [REDACTED]. As a member of that panel, you have a vote in the decision. You stated that the [REDACTED] has been an applicant in the past, and that it is reasonable to expect that [REDACTED] will apply again in the future.

There are four sections of the Ordinance that apply to your particular situation. One is entitled "Representation of Other Persons," section 2-156-090, which states:

(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 non-ministerial nature . . . (emphasis added).

As the Board has interpreted it, the terms "represent" and "representation" as used in this section of the Ordinance apply to any activity in which a person acts as a spokesperson for some party or seeks to communicate and promote the interests of one party to another. Under this definition, representing others before the City would include, but is not limited to, actions such as making personal appearances before City agencies on behalf of others, making telephone contact with City employees and officials on behalf of others, and submitting written requests and proposals to City agencies, employees, or officials on behalf of others.

Therefore, because of your positions with the City, you would be prohibited from undertaking any conduct that would constitute the representation of [REDACTED] before any City agency, including but not limited to your Department of [REDACTED] and the [REDACTED] panel. Such representation would subject you, as a City employee, to employment sanctions, and would jeopardize [REDACTED]'s ability to obtain assistance from the City.

The next section of the Ordinance that pertains to your situation is entitled "Fiduciary Duty," which states: "Officials and employees shall at all times in the performance of their public duties owe a fiduciary duty to the City." § 2-156-020. This section establishes an obligation for City employees to use their City positions responsibly and in the best interest of the public. As a City employee, you are required to exercise professional judgments free from outside influences or conflicting duties

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to another entity, such as [REDACTED] X. Under the circumstances, your serving in both capacities may prove difficult given the amount of contact X [REDACTED] would have with City agencies that you supervise and for which you make decisions. Although in some instances recusal may be an option, please be advised that in a previous case opinion, the Board of Ethics stated that if recusal is not an option for an employee whose duties conflict with an outside obligation, the employee may be forced to resign from City service. Case No. 91078.A, p. 4. In addition, this section precludes employees from using City time to obtain a personal benefit or to promote a purely private interest.

There are two additional sections of which you should be aware. Section 2-156-060, entitled "City-owned Property," prohibits you from using any City property or resources in your position with X [REDACTED], or for any private benefit. Section 2-156-070, entitled "Confidential Information," prohibits you from using or revealing to X [REDACTED] confidential information gained in the course of or by reason of your City employment.

This staff opinion is based on the application of the City's Governmental Ethics Ordinance to the facts provided. If these facts are incorrect or incomplete, please notify us as any change may alter our opinion. Please be advised that there may be other rules or laws that may restrict or prohibit you from accepting this position.

We appreciate your willingness to comply with the ethical standards embodied in the Governmental Ethics Ordinance, and enclose a copy of the Ordinance for your convenience. If you have any additional questions, please contact us.

Sincerely,

Marilyn E. Hanzal

Marilyn E. Hanzal
Legal Counsel

Approved:

Dorothy J. Eng
Dorothy J. Eng
Executive Director

Enclosure

MEH:92012.L1