



City of Chicago  
Richard M. Daley, Mayor

Board of Ethics

Dorothy J. Eng  
Executive Director

Darryl L. DePriest  
Chair

Angeles L. Eames  
Vice Chair

Eileen T. Corcoran  
Emily Nicklin  
Martin E. O'Donovan  
Michael F. Quirk

Room 303  
320 North Clark Street  
Chicago, Illinois 60610  
(312) 744-9660  
(312) 744-2793 (FAX)  
(312) 744-5996 (TTY)  
<http://www.ci.chi.il.us>

CONFIDENTIAL

[REDACTED]

Re: Case No. 97036.Q

Dear [REDACTED]

As [REDACTED] of the [REDACTED] Board, you wrote our office on [REDACTED] to ask for a written opinion about how the City's Ethics Ordinance applies to a situation involving the [REDACTED] Board. In your letter, as well as in several subsequent telephone conversations with staff members, you indicated the following facts. The [REDACTED] Board is responsible for screening applicants for the position of [REDACTED] when there is a vacancy, which there will be after [REDACTED]. Because the [REDACTED] Board must commence its search quickly, you have requested that this office expedite its written reply. The [REDACTED] Board is considering retaining the executive search firm of [REDACTED] ("R") to assist in the project. You anticipate that Mr. A, an employee of R, would likely work on this project on R's behalf. He is an associate of R and has no ownership or partnership interest in the firm. He is the husband of Ms. A, [REDACTED] of the City's Department of [REDACTED]. Ms. A, you stated, has no actual or potential management authority over any R business, and was not involved in bringing to the [REDACTED] Board's attention the work or availability of either R or her husband. Moreover, you stated, there is no overlap between the work of Ms. A's department and that of the [REDACTED] Board. Finally, you said, to the best of your knowledge no employee or official of the [REDACTED] Board has any ownership or monetary interest in or employment with R, or any relative who contracts with or is employed by R. You have asked whether, given these facts, and consistent with the requirements of the Ethics Ordinance, R can be retained by the [REDACTED] Board for this project.

Based on the facts you presented and the limitations described below, it is staff's conclusion that the Governmental Ethics Ordinance does not prohibit R from being retained by the [REDACTED] Board on this project, or Mr. A from working on the matter on R's behalf. Before coming to this conclusion, staff was required to analyze several



[REDACTED]

provisions of the Ethics Ordinance that appeared to be relevant based on the facts presented. Our reasoning follows.

First, because Ms. (A) is the [REDACTED] of the Department of [REDACTED], we looked to §2-156-130 (b). This section prohibits a City official or employee, such as Ms. (A), from exercising contract management authority where any relative of the employee or official is employed by or has contracts with persons doing City work over which he or she has or exercises contract management authority.<sup>1</sup> To the extent that, as you said, Ms. (A) would not exercise (and has no) contract management authority over [REDACTED] R, the firm that employs her relative, we conclude that this section does not prohibit [REDACTED] R from being retained on this project by the [REDACTED] Board, or Mr. (A) from working on the matter on [REDACTED] R's behalf.

Second, §§ 2-156-030 and -080, respectively entitled "Improper Influence" and Conflict of Interest," prohibit City employees and officials from making, participating in or using their City position to influence any City decision in which they have an economic interest<sup>2</sup> distinguishable from the general public. The Ordinance, however, provides an exception (in §§ 2-156-010 (i) and (l)(a)): "any interest of the spouse of an official or employee which interest is related to the spouse's independent occupation, profession or employment" shall not constitute an economic interest. To the extent that, as you said, Ms. (A) has no actual or potential contract management authority over any [REDACTED] R business, was not involved in bringing to the [REDACTED] Board's attention [REDACTED] R's or her husband's work or availability, and will not participate in the management or operation of her husband's project, we conclude, consistent with prior Board opinions (see Case nos. 88016.A, 88017.A, 91052.A and 91097.Q), that Ms. (A) would not be making, participating in or using her City position to influence the [REDACTED] Board's decision, and that, in any event, this matter would constitute Mr. (A)'s independent occupation or business under these sections of the Ordinance. Thus, under these facts, Ms. (A) has no economic interest in [REDACTED] R, the project, or her husband's work for [REDACTED] R on the matter, and these sections do not prohibit [REDACTED] R from being retained on this project, or Mr. (A) from working on it.

Additionally, we reviewed the standards of § 2-156-110, "Interest in City Business." This section prohibits City employees (such as Ms. (A)) and elected officials from having a financial interest in their own name or the name of another in any contract, work or

<sup>1</sup> "Contract management authority" is defined in § 2-156-010 (g) as personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract.

<sup>2</sup> "Economic interest" is defined in § 2-156-010(i) as any interest valued or capable of valuation in monetary terms; "financial interest" is defined, in relevant part, in § 2-156-010(l) as any interest as a result of which the owner currently receives or is entitled to receive more than \$2,500 per year, or any interest with a cost or present value of \$5,000 or more. Each term is subject to an exception for a spouse's independent occupation, profession or business, as discussed in the text.

[Redacted]

Page 3

business of the City. However, the definition of "financial interest" contains the same exception for the independent occupation or business of the spouse of a City employee, such as Ms. LA. Therefore, consistent with our conclusions concerning §§ -030 and -080 regarding the application of the spousal exception, we conclude that § -110 does not prohibit [Redacted] R from being retained on this project, or Mr. A from working on it.

Finally, we note that you said that, to the best of your knowledge, no employee or official of the [Redacted] Board has any ownership or monetary interest in or employment with [Redacted] R, or any relative who contracts with or is employed by [Redacted] R. As long as this is true, no official or employee of the [Redacted] Board who would participate in or make the decision to retain [Redacted] R for this project would have a prohibited economic or financial interest in the matter, nor would be exercising contract management authority over a contract with a person that employs or contracts with their relative.

Please be advised that our conclusions are based solely on the application of the City's Governmental Ethics Ordinance to facts as stated in this letter. Other laws, rules, or executive orders (such as Mayoral Executive Order 97-1) may apply to this situation, and we advise you to seek guidance thereon. We appreciate your bringing this matter to our attention and your concern to abide by the standards of the Ethics Ordinance, a copy of which we enclose for your reference. If the facts presented in this letter are incorrect or incomplete, please notify us immediately, as any change could alter our conclusions. If you have any further questions about this or any other matter, please contact us.

Yours very truly,

  
Dorothy J. Eng,  
Executive Director