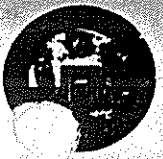


msd



February 13, 1991

CONFIDENTIAL

[REDACTED]

City of Chicago
Richard M. Daley, Mayor

Board of Ethics

Dorothy J. Eng
Executive Director

Albert F. Hofeld
Chair

Angeles L. Eames
Vice Chair

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Fr. Martin E. O'Donovan
Marlene O. Rankin
Catherine M. Ryan

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

Re: 91026.A
ADVISORY OPINION

Dear [REDACTED]

We reviewed your letter of January 11, 1991 in which you pose the following question:

"Does this pro bono and gratis construction work by my client constitute doing business or seeking to do business with the City under Municipal Code § 2-164-040(a)?"

The Board of Ethics determines that your client's pro bono or gratis work does not constitute doing business or seeking to do business with the City. Our explanation is set forth below.

In your letter, you stated that your client constructed improvements on City property which improvements are controlled by a City agency. The improvements were for the benefit of a not-for-profit foundation, and were made at no charge by your client. You state that there was no contract for the improvements and no consideration was exchanged between your client and the foundation or between your client and the City.

The Campaign Financing Ordinance restricts the campaign contributions of those who do business or are seeking to do business with the City of Chicago. It refers to the Governmental Ethics Ordinance for the definition of "doing business" and "seeking to do business."

The term "doing business" is defined at § 2-156-010(h) as "any one or any combination of sales, purchases, leases or contracts to, from or with the City or any City agency in an amount in excess of \$10,000 in any twelve consecutive months." The term "seeking to do business" is defined at § 2-156-010(x) as "(1) taking any action within the past 6 months to obtain a contract or business from the City when, if such action were successful, it would result in the person's doing



February 13, 1991
Page 2

business with the City; and (2) the contract or business sought has not been awarded to any person."

Since your client did not receive compensation or income for the work performed and has done no other work with the City, the Board determines that your client is not doing or seeking to do business with the City, as that term is defined in the Ordinance. In general pro bono or gratis work in and of itself does not constitute doing business or seeking to do business with the City. However, this general proposition does not preclude a situation where the evidence would indicate to the contrary. In this case the pro bono work appears to be more akin to a gift.

Our determinations and recommendations are based upon the facts as stated in this letter. If these facts are incorrect or incomplete, please notify us immediately, as any change in the facts may alter our decision. We enclose a copy of a procedural form, which we include with every advisory opinion. We appreciate your client's effort to comply with the ethical standards imposed by the Governmental Ethics Ordinance. If you have any further questions, please feel free to contact us.

Very truly yours,


Albert F. Hovold
Chairman

cc: Kelly Welsh
Corporation Counsel
mh:91026.L1