



CITY OF CHICAGO



BOARD OF ETHICS

Date

Aldersperson _____

__ Ward

Address

Chicago, IL _____

Re: Case No. 21036.Q / Interest in City Business; Improper Influence; Conflicts of Interest

Dear Aldersperson _____:

You called our Executive Director on October 29, asking whether and, if so, which of the City's Governmental Ethics Ordinance ("Ethics Ordinance" and "Ordinance") restrictions would apply were you to sell a property on _____ St. in Chicago that is owned by you. You indicated that potential buyers of the property might include _____, or _____, or a developer, or executives of these entities who might purchase the property on their own. We note that at this time you are contemplating the sale and the property is not yet on the market.

RELEVANT LAW

The following Governmental Ethics Ordinance provisions apply:

2-156-110. Interest in city business

(a) Except with respect to the participation of Eligible Persons in Eligible Programs, no elected official or employee shall have a financial interest in his own name or in the name of any other person in any contract, work or business of the city, or in the sale of any article, whenever the expense, price or consideration of the contract, work, business or sale is paid with funds belonging to or administered by the city, or is authorized by ordinance...

2-156-030. Improper influence

(b) No elected official, or any person acting at the direction of such official, shall contact either orally or in writing any other city official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may preside over or participate in any discussion in any City Council Committee hearing, or participate in any discussion in any city council meeting or vote on any matter involving the

person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

2-156-080. Conflicts of interest; appearance of impropriety

(b)(2) To avoid even an appearance of impropriety, any member of the City Council who has any business relationship with a person or entity with a matter pending before the City Council or any City Council Committee: (i) that creates a financial interest on the part of such member, or the domestic partner or spouse of such member, or (ii) from whom or which the member has derived any income or compensation during the preceding twelve months or from whom or which the member reasonably expects to derive any income or compensation in the following twelve months, shall publicly disclose in detail the nature of such business relationship or income or compensation, including when such relationship commenced, on the records of proceedings of the City Council and the City Council Committee, and shall also notify, with the same detail, the Board of Ethics of such relationship within 96 hours of delivery by the Clerk to the member, of the introduction of any ordinance, resolution, order or other matter in the city council, or as soon thereafter as the member is or should be aware of such potential conflict of interest.

The member shall abstain from participating in any discussion concerning and voting on the matter but shall be counted present for purposes of a quorum.

ANALYSIS

First, Ordinance §2-156-110, entitled Interest in City Business, prohibits [you] from selling the property to the City, as doing so would result in you having a financial interest in a City contract.

Second, two (2) sections of the Ethics Ordinance, §2-156-030(b), "Improper influence," and §2-156-080(b)(2), "Conflicts of Interest/Appearance of Impropriety," would require that you recuse yourself from certain matters pending before the City if those actions involve the buyer of the property.

These sections of the Ordinance both provide, in essence, that you cannot make, participate in making, or in any way attempt to use your City position as alderperson to influence any City governmental decision or action involving a person (here, the ultimate purchaser of the property) from whom or which you have derived any income or compensation during the preceding twelve months, or from whom or which you reasonably expect to derive any income or compensation in the following twelve months. Pursuant to these sections, we advise you that, for a full 12 months after the purchaser makes its last payment [to you] for the property, you would be required to disclose to the Board of Ethics, in writing, within 96 hours (4 days) of discovering them, any matters before the City Council or any of its committees that directly involve the purchaser, *and* then recuse yourself from any discussions or votes on such matters.

Moreover, even if City matters do not involve the City Council, but other City departments, such as the Department of Buildings, Planning & Development, or Housing, you would be prohibited from contacting those other City departments or from directing that your staff contact those other City departments in such matters, pursuant to §2-156-030(b), which is similar to the other restrictions. That is, you would not be allowed to become involved in, or direct other City employees or officials, such as your ____ Ward staff, to become involved in any City matters involving the purchaser. We note, however, that this prohibition does not extend to matters pending before “sister agencies” of the City, such as the Chicago Public Schools or the Chicago Park District. See Case No. 151688.Q.

By means of example, if, say, [a business executive] purchases the property in their personal capacity, the restrictions discussed above would apply only to that individual and not the [their business] -- presuming, of course, that the individual does not turn around and sell the property to the [business]. Were that the case, the [business] would be the ultimate purchaser and your restrictions would then extend to the [business].

Our advice is based solely on the facts you presented, and addresses only the City’s Governmental Ethics Ordinance. Our office appreciates the opportunity to advise you, and your conscientiousness in seeking our advice. If you have further questions about this or any other matter, please contact us.

Very truly yours,

Lisa Eilers, Deputy Director

Approved by:

Steve Berlin, Executive Director