

MEH

January 19, 1989



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Board of Ethics
Harriet McCullough
Executive Director

Sol Brandzel
Chair

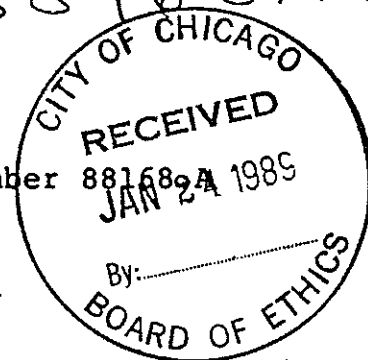
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88168, A



Case Number 88168, A 1989

CONFIDENTIAL

Dear [Redacted]

The Board of Ethics has reviewed your request for an advisory opinion to determine whether you may operate a sewer repair service during your off-duty hours. After thorough consideration of all the pertinent ordinance sections and the facts of this situation, the Board ruled that your participation in the sewer repair business would not violate the Governmental Ethics Ordinance.

Two sections of the Ethics Ordinance are potentially relevant to the outside business enterprise you propose. First Section 26.2-5 entitled, "Solicitation or Receipt of Money for Advice or Assistance" states:

No official or employee, or the spouse or minor child of any of them, shall solicit or accept any money or other thing of value including, but not limited to, gifts, favors, services or promises of future employment, in return for advice or assistance on matters concerning the operation or business of the City; provided, however, that nothing in this section shall prevent an official or employee or the spouse of an official or employee from accepting compensation for services wholly unrelated to the official's or employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession.

This section prohibits a City employee from accepting private payment for performing services required by his City employment. This section would prohibit you from performing plumbing



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repairs that were the responsibility of the City. However, in the case where the City has determined that the repairs were the sole responsibility of the homeowner you could perform such repairs without violating this section of the Ordinance.

Second, Section 26.2-6 entitled "City-owned Property" states:

No official or employee shall engage in or permit the unauthorized use of City-owned property.

This section prohibits an employee from using City property for his personal economic gain. Information available to you only because of your status as a City employee would be considered City property. You alleged that to acquire information about available sewer repair work it is a common practice for plumbers to intercept radio transmissions between sewer repair crews and the City dispatcher. The communications are transmitted over the public air waves. Once the information is transmitted over public air waves it is placed in the public domain and thereby becomes public information. Your use of such information would not violate the Ethics Ordinance. However the Board cautions you against using any information received by virtue of your City employee status that may be unavailable to the general public.

In conclusion, the Board recommends that if you decide to pursue the plumbing business in your off duty hours, you remember the following:

1. You may not perform your outside business work on City time;
2. You may not use City property including but not limited to, trucks, tools, radios or information in performing your outside business;
3. You may use any information available to the general public to obtain business contacts;
4. You may not use information available only to you by virtue of status as a City employee to obtain business contacts;
5. You must not identify yourself as a City employee when soliciting business.

We appreciate your inquiry and hope that this letter adequately answered your questions regarding you proposed sewer repair

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service. If you have further questions regarding this or related matters, please do not hesitate to contact the Board.

Sincerely,


Sol Brandzel
Chair

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