June 24, 2015

*Confidential*

[City employee], Post-Employment Restrictions

Case No.: 15038.Q

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This is in response to your inquiry regarding the applicability of the City's Governmental Ethics Ordinance (“Ordinance”) post-employment restrictions to your proposed post-employment activities.

Summary of Your City Employment

You said that you are a licensed attorney and worked in the office of Alderman [ABC] as a [position] , which is a Shakman-exempt position. You resigned from your City service on May 18, 2015. In that position, you said that you attended community meetings, reviewed and responded to comments submitted regarding development proposals in the ward. You also said that you would appear and read comments into the record on matters pending before the City Council’s [X] Committee and the City’s [C] Commission on [ABC’s] behalf, and that the [ABC] served on the [X] Committee. , you explained that you believe that you did not participate, assist, or represent anyone in any judicial or administrative proceeding involving the City (other than proceedings before the [X] Committee and the [C] Commission) and that you did not have any contract management authority.

Your Contemplated Post-Employment Activities

Since you are a licensed attorney, you said that you would likely continue your law practice as a solo practitioner. You stated that, through your City position, you developed relationships with law firms doing or seeking to do business with the City, and that you learned how the City’s infrastructure works. In your solo practice, you said that you intend to handle real estate, property and sales tax relief, and zoning matters.

You asked whether the post-employment restrictions would apply to the following three potential areas of practice:

i) Working as a consultant for a law firm handling zoning-related matters for properties that you had no involvement with while employed at the City.

ii) Consulting with third parties on how to manage the City’s infrastructure (meaning communicating with City departments such as Water Management and Transportation).

iii) Consulting with aldermen on how to manage the City’s infrastructure.

Law and Analysis

As you know, there are three post-employment restrictions found in §§2-156-100 and -105 of the Ordinance. The following is an application of the post-employment restrictions based on the information you provided:

1. Permanent Restriction - Based on our review of your record, we conclude that you did not have contract management authority, although you participated in administrative proceedings involving the City, namely those proceedings or transactions in which you reviewed documents, attended community meetings, or read comments into the record. Thus, we advise you that are permanently prohibited from assisting or representing any person with respect to those proceedings, or the transactions or developments considered in them.

2. Two-Year Lobbying Restriction - The Ordinance prohibits certain Shakman-exempt employees from lobbying their former City agency or department for two years after they leave their City service. However, because you were a City Council employee, you are exempted from this restriction, per §§2-156-105(b) and -010(j-1) of the Ordinance.

3. One-Year Restriction - We analyze the application of this restriction by defining the subject matter of the business transaction involving the City that you would be working on. The work you would perform after leaving your City employment defines the subject matter. Once we identify the subject matter, the question becomes whether you participated personally and substantially in that subject matter during your City employment.

Based on the facts you provided, we conclude that you are restricted for one-year from handling matters that could arise before the [X] Committee. Insofar as there may be matters that would not appear before the [X] Committee or [C] Commission, you are not so restricted. In addition and under the same reasoning, you are prohibited for one year from the date your City service ended from consulting third parties on how to manage the City’s infrastructure.

According to our records, your City employment ended on May 18, 2015 and the one-year restriction expires on May 18, 2016, meaning that on May 19, 2016, you could begin working on those matters before the City.

4. Turning specifically to whether you could consult with an alderman (as opposed to a third party) on managing the City’s infrastructure - you would have to be hired as an independent consultant directly with the City. For Executive Branch employees who wish to become consultants, our Board has recognized that there needs to be a written contract, which obligates the former employee to act, at all times, in the City best interest while performing the work for which he contracted to do. The employee must enter into the contract as an independent contractor and not as an employee or agent of any other party (such as a professional corporation of which the former employee is the sole shareholder). We have also recognized that, as a policy matter, former Executive Branch employees and the City departments wishing to retain independent contractors must obtain approval from the Law Department, the Mayor’s Office, the Office of Budget and Management, and the Inspector General’s Office. Our Board has not addressed whether these policy-mandated approvals are necessary for a former City Council employee to be retained as a consultant to an alderman or a City Council committee. Therefore, before you engage in any such consulting work, we advise you, and/or the aldermen to whom you may act as a consultant, to seek the advice of with City’s Law Department. I have attached Board Case No. 99010.A for guidance regarding working as an independent contractor for the City.

Confidential Information and Sanctions

As a former City employee, you are prohibited from using or revealing confidential information you acquired through your City employment, pursuant to §2-156-070. For purposes of this section, confidential information means any information that may not be obtained pursuant to the Illinois Freedom of Information Act.   We also advise you that a violation of any of these post-employment restrictions could result in the voiding of the City contract and subject you to substantial monetary penalties, pursuant to §§2-156-485 and -510.

Staff’s advice and conclusions are based on the facts you provided and address only the restrictions in the City’s Governmental Ethics Ordinance. Other laws or regulations may apply - specifically but not exclusively Rules 1.7, 1.9 and 1.11 of the Rules of Professional Conduct for Illinois attorneys. If the information is incorrect or incomplete, please notify the Board immediately as any change may alter our determination.  We further advise you to contact us for advice should matters arise that involve the City during your restriction periods, or if your post-City employment plans change and are not addressed in this letter. Finally, we advise you to ensure that your post-governmental law practice fully conforms with any applicable rules promulgated by the Illinois Supreme Court under the Revised Rules of Professional Conduct for attorneys. You may wish to seek advice from the Attorney Registration and Disciplinary Commission regarding their applicability, as we are not authorized to render such advice.

If you have any additional questions, please call or contact me via email.

Ana Collazo

Attorney

Approved:

Steven Berlin, Executive Director