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September 19, 1990

C O N F I D E N T I A L



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Catherine M. Ryan

Suite 530
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

[REDACTED]

Case No
89123.I

Re: [REDACTED]

Dear [REDACTED]

We are writing in response to a memorandum, Ref. No. 018086 which we received from your office enclosing a letter from [INDIVIDUAL A] a private citizen. Citing to a Chicago Tribune article [REDACTED] [INDIVIDUAL A] alleges in her letter that [INDIVIDUAL B] the Chairman of [COMMISSION X] and Executive Director of [COMMISSION Y] (1) had derived an improper private benefit from his public office when he purchased from the City and subsequently resold [PROPERTY Q] and (2) had taken advantage of his position in City government to get the property in question rezoned to permit the construction of [PROPERTY R]

The Board of Ethics reviews complaints in light of the Governmental Ethics Ordinance, which became effective in 1987. [INDIVIDUAL B] purchased the property in question before 1987. Under the general rule of law that an ordinance cannot be applied retroactively, any restrictions imposed by the Ordinance could not be applied to the sale in question.

With regard to the rezoning issue, the Board after making numerous inquiries has determined that an investigation is not warranted. This determination is based on two factors: (1) there

[REDACTED]



is no evidence that **INDIVIDUAL B** represented the purchaser of the property before the City agencies which deal with rezoning, the Departments of Zoning and Planning, and (2) such representation, if it occurred, would not violate the Ordinance.

Since the rezoning and planning approval took place in 1989, after the effective date of the Ordinance, **INDIVIDUAL B** as an appointed official would be subject to the representation restrictions of the Ethics Ordinance which are contained in Section 26.2-9:

(a) No elected official or employee may represent, or have an economic interest in the representation of, any person other than the City in any formal or informal proceeding or transaction before any City agency in which the agency's action or non-action is of a non-ministerial nature; provided that nothing in this subsection shall preclude any employee from performing the duties of his employment, or any elected official from appearing without compensation before any City agency on behalf of his constituents in the course of his duties as an elected official.

(c) No appointed official may represent any person in the circumstances described in subsection (a) . . . unless the matter is wholly unrelated to the official's City duties and responsibilities.

Appointed officials are permitted to engage in such activities so long as the matters involved are "wholly unrelated" to their City duties and responsibilities.

INDIVIDUAL B duties as Chairman of **COMMISSION X** are set forth in the Municipal Ordinance.

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Although the information gathered by the Board indicates that there are numerous relations among the Zoning Department, the Department of Planning and its Plan Commission, and COMMISSION X the focus of the Ethics Ordinance with regard to appointed officials' representation is the duties of the official involved.

[REDACTED]

To the best of their knowledge, the building in question has never come before the Commission.

The mere fact that the chairman of one Commission knows or has dealings with members of other commissions by virtue of his position is not a sufficient basis to substantiate alleged representation violations. Therefore, since the rezoning of this building has no relationship to INDIVIDUAL B's duties as an appointed official, any representation of third parties by him before the Departments of Zoning or Planning on the subject would not have been in violation of the Ethics Ordinance.

I recognize this response has been delayed and apologize for any inconvenience this may have caused. If you have any questions or comments regarding the Board's decision in this case please do not hesitate to call.

Sincerely,


Albert F. Hord
Chairman

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