



CITY OF CHICAGO



BOARD OF ETHICS

CASE NO. 24009.W
WAIVER FROM THE CITY'S POST-EMPLOYMENT RESTRICTIONS

At its May 13, 2024 meeting, the Board, by a 4-0 vote, granted a waiver¹ from the Governmental Ethics Ordinance's (Ordinance) post-employment restrictions on assisting or representing² to Daniel Kay Hertz, a former City employee.

In accordance with §2-156-402(b) of the Ordinance, the following is a summary of the granted waiver.³

¹ §2-156-402. Waivers.

- (a) When requested by a city official or employee, the Board may grant a waiver from compliance with any of the following ...
- (4) The restrictions pertaining to matters related to a city official's or employee's immediate former employer or client as provided in Section 2-156-111 (d).

² 2-156-100. Post-employment restrictions on assistance and representation.

(a) No former official or employee shall assist or represent any person other than the city in any judicial or administrative proceeding involving the city or any of its agencies, if the official or employee was counsel of record or participated personally and substantially in the proceeding during his term of office or employment.

(b) No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or employment, assist or represent any person in any business transaction involving the city or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract.

³ §Board of Ethics Rule 9, entitled Waivers, states:

(1) Pursuant to §2-156-402 of the Ordinance, the Board may grant any current or former City employee or official waiver from compliance with respect to the following provisions of the Ordinance: (i) §2-156-142(a) (gifts) to the extent the waivers apply to material or travel expense for meetings; (ii) §§2-156-100 and 2-156-105 (post-employment restrictions); (iii) §2-156-110 (financial interest in City business); and (iv) §2-156-111(d) (the reverse revolving door restrictions) as to matters related to a city official's or employee's immediate former employer or client.

(2) In order for the Board to grant a waiver, a current or former city employee or official must request it in writing. The request must include: (i) the name of the requestor; (ii) the requestor's agency and where the requestor works; (iii) the requestor's title; (iv) the requestor's responsibilities; (v) a detailed description of the situation; and (vi) permission for the Board or its staff to communicate with third parties as necessary and appropriate for the Board to determine whether to grant or deny the waiver.

(3) The Board may grant a waiver with conditions, restrictions or limitations, including that the waiver may be withdrawn or modified upon contingencies set forth in the waiver grant from the Board.

(4) The waiver itself, if granted, shall be made public in a manner prescribed by the Board. However, the request and any information or documents related to the request or the Board's determination shall not be made public and shall be and remain subject to the Ordinance's and Board's rules on confidentiality.

On Tuesday, April 24, 2024, Daniel Kay Hertz, then the Director of Policy, Research and Legislative Affairs in the City's Department of Housing, requested that the Board grant him a waiver from the Ordinance's post-employment restrictions on assistance and representation, pursuant to §2-156-402(b)⁴ of the Ethics Ordinance so that he can continue to work on the City's development of a "green social housing" initiative in his new job as the Director of Housing Programs with a local nonprofit, Impact for Equity ("IFE"). The initiative is an effort to launch a new way of financing and operating mixed-income affordable rental housing.

Mr. Hertz worked in the City's Department of Housing ("DOH") as the Director of Policy, Research and Legislative Affairs from September 2019 until April 26, 2024. While with DOH, Mr. Hertz was involved in the early stages of the initiative and asked that he be permitted to continue work on the initiative, including the development of a program manual and project selection criteria, as an employee of IFE.

The Board granted the requested waiver as it applies to Mr. Hertz's work on the "green social housing" initiative because: (i) IFE's work on the initiative is inherently aligned with the best interests of the City; (ii) Mr. Hertz will not personally profit from a waiver; and (iii) the expertise and experience Mr. Hertz brings to the initiative are unique, and the City and its residents will thus significantly benefit from his continued work on the initiative.

(5) If the waiver request discloses a past or existing violation of the Ordinance that is not minor, the Board shall share that information with the appropriate investigating authority pursuant to Rule 3-11. 1 See Miss. Code Ann. §5-8-17 and Illinois Administrative Code Title 2, Subtitle C, c. III, §560.390 (b). 29 (6) Upon receiving the waiver request, obtaining all necessary additional information, and considering the request, the Executive Director shall recommend that the Board grant or deny a complete or limited written waiver to the city employee or official. The Executive Director shall retain a copy of the grant or denial in the Board's files; report on the matter to the Board pursuant to the Open Meetings Act; and make the waiver public in a manner prescribed by the Board.

(6) Upon receiving the waiver request, obtaining all necessary additional information, and considering the request, the Executive Director shall recommend that the Board grant or deny a complete or limited written waiver to the city employee or official. The Executive Director shall retain a copy of the grant or denial in the Board's files; report on the matter to the Board pursuant to the Open Meetings Act; and make the waiver public in a manner prescribed by the Board.

⁴ No waiver from the Ordinance's "Post-employment restrictions on lobbying," contained in §2-156-105 of the Ordinance, was requested or necessary, given that Mr. Hertz is not subject to them.