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**CONFIDENTIAL**

Re: Case No. 90075.A  
ADVISORY OPINION

Dear INDIVIDUAL A .

On a CERTAIN DATE you telephoned to ask whether you could participate in a housing program operated by a community group called CORPORATION X. You stated that you are AN EMPLOYEE

of the Department of Housing (DOH). The Board determined that your participation in CORPORATION X'S program will not violate the Governmental Ethics Ordinance.

**FACTS:**

CORPORATION X is a not-for-profit group that is working with the City to provide affordable housing. Together with churches, CORPORATION X has formed A PROGRAM with the goal of building 250 housing units. Initially, participation in the program was limited to members of partner churches, but in areas where there is not sufficient interest, the program has been opened to the general public.

According to INDIVIDUAL B, AN EMPLOYEE OF DOH, the City assisted CORPORATION X in attaining a \$2.5 million grant from the federal government through A HUD PROGRAM.

This program requires the City to provide a certain level of assistance to a project in order for funds to be granted.

The City is providing no money but has sold approximately 40 City-owned lots to CORPORATION X at the cost of one dollar per lot and is waiving City fees in connection with the development of the proposed housing. According to INDIVIDUAL C,



Case No. 90075.A  
December 20, 1990  
Page 2

AN EMPLOYEE OF CORPORATION X, these City-owned lots comprise approximately 40% of the total lots being developed. The fees being waived by the City include outstanding liens on sewer or water bills as well as fees incurred in the construction process, e.g., the water tap fee, which total approximately \$2,500. According to a press release from the Mayor's office, the total estimated value of the City-owned land and fees is \$7,500 per home. INDIVIDUAL B stated that this figure seemed high. She also stated that lots are sold for one dollar in other City programs and that typically such lots are valued at less than \$5,000. In addition, the sizes of the lots vary. Some are large enough to be divided up into two or more units.

CORPORATION X also has purchased property from the School Board and from tax scavenger sales. The City has waived the same fees on these lots, as well as any outstanding rehabilitation loans connected with the properties.

According to both INDIVIDUAL B and INDIVIDUAL C the City has no other involvement in the project and all decisions on who will be allowed to participate in the project will be made by Corp. X based on income guidelines.

INDIVIDUAL D, AN EMPLOYEE OF, CORPORATION X stated that participants must have a minimum combined household income of \$20,000. Other criteria are similar to those for any other mortgage. The goal of the program is to provide affordable housing. Homes will be built on the land acquired.

According to INDIVIDUAL C the City began working with CORPORATION X a couple years ago. You became an employee of the City and are a member of A CHURCH INVOLVED IN CORPORATION X'S PROGRAM. You asked if, under the Ethics Ordinance, you can participate in CORPORATION X'S PROGRAM.

**LAW:**

The relevant section of the Ethics Ordinance, § 2-156-110 (prior code § 26.2-11), states:

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. Compensation for property taken pursuant to the City's eminent domain power shall not constitute a financial interest

within the meaning of this section. Unless sold pursuant to a process of competitive bidding following public notice, no elected official or employee shall have a financial interest in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City. No appointed official shall engage in a transaction described in this section unless the matter is wholly unrelated to the official's City duties and responsibilities.

Financial interest is defined as:

(i) any interest as a result of which the owner currently receives or is entitled to receive in the future more than \$2,500 per year; (ii) any interest with a cost or present value of \$5,000 or more; or (iii) any interest representing more than 10% of a corporation or other legal entity organized for profit. (§ 2-156-010(1), prior code § 2.26-1(1))

**ANALYSIS:**

As a participant in CORPORATION X'S PROGRAM, you would have no contracts or other direct involvements with the City. Since the City has no role in any of the decision-making for this program, there is little chance of improper influence as a result of City employment. Therefore, the Board believes that the purpose of this section of the Ordinance would not be compromised by a City employee's participation in this particular program.

We also note that the amount of the interest in any given lot probably would not reach the \$5,000 financial interest threshold. The combined value of the land sold for one dollar by the City and the waived fees might total \$5,000 or more. However, under the circumstances, it is difficult to calculate the exact amount of benefit gained directly from the City, by one participating in this program.

**CONCLUSION:**

Since the purpose of the relevant section of the Ordinance does not appear to be in jeopardy, and since the amount of City interest in any given housing unit cannot be precisely calculated but is not likely to be \$5,000 or more, the Board determined that your participation in CORPORATION X'S PROGRAM would not violate the Governmental Ethics Ordinance.

Case No. 90075.A  
December 20, 1990  
Page 4

If you have any additional questions, please feel free to contact us. We enclose the standard procedural rules which we provide with every advisory opinion.

Sincerely,

  
Albert Hofeld  
Chairman

Enclosure

cc: 

Kelly Welsh, Corporation Counsel  
City of Chicago

tl:90075.L1

## NOTICE OF RECONSIDERATION AND RELIANCE

Reconsideration: This advisory opinion is based on the facts outlined in this opinion. If there are additional material facts or circumstances that were not available to the Board when it considered this case, you may request reconsideration of the opinion. A request for reconsideration must (1) be submitted in writing, (2) explain the material facts or circumstances that are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this opinion.

Reliance: This advisory opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.