

MEM

June 3, 1987



City of Chicago  
Richard M. Daley, Mayor

Board of Ethics  
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Executive Director

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Robert Malone Morrow  
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CONFIDENTIAL



CASE NUMBER 87034.A

Dear [Redacted]

The Board of Ethics has reviewed your request for an advisory opinion to determine whether your representation of a company which proposes to enter into a city contract to provide a revenue collection system for public parking spaces will violate any of the provisions of the Governmental Ethics Ordinance (effective July 1, 1987) or the recommendations contained in the Report of Special Assistant Corporation Counsel Thomas P. Sullivan.

Please be advised that as of July 1, 1987 a new Board of Ethics will take office, and only that Board will have the authority to interpret the provisions of the Governmental Ethics Ordinance. The current Board of Ethics is only authorized to interpret Executive Order 86-1. Any interpretations of the Governmental Ethics Ordinance offered by this Board are therefore only interim recommendations offered for the purpose of providing guidance to individuals who have explicitly requested such an opinion.

This letter is divided into three sections. Section I provides an interpretation of Executive Order 86-1. Section II provides an interpretation of the Governmental Ethics Ordinance as it may apply to this case. Section III is a commentary on the effect that the post-employment recommendation contained in the "Sullivan Report" would have on your representation of the client in question, if the recommendations were implemented.



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Section I. EXECUTIVE ORDER 86-1

Representation of other Persons  
(Section 10)

As a member of the [REDACTED] Commission, your conduct is governed by Section 10(a) of Executive Order 86-1. Section 10(a) prohibits appointed officials from representing any person other than the City, for compensation, in any formal or informal proceeding before any City agency unless the agency's action or non-action is ministerial. As a matter of fairness, however, the Board has determined that cases involving representation of other persons before city agencies should be judged in light of Section 26.2-9(a) and (c) of the Governmental Ethics Ordinance.

Section 26.2-9 (a) and (c) of the Ordinance (effective July 1), states that no appointed official may represent, or have an economic interest in the representation of any person other than the City in a non-ministerial proceeding or transaction before a City agency "unless the matter is wholly unrelated to the official's city duties and responsibilities". To the extent that Section 10(a) of the Executive Order is more restrictive than the standard expressed in the Ordinance, the Board has determined that this provision should be enforced at this time only if and to the extent that the representation in question is not wholly unrelated to the official's city duties and responsibilities.

To apply this standard, the Board must determine whether your representation of the developer will be wholly unrelated to your duties as a member of the [REDACTED] Commission. On its face, your proposed representation appears to be wholly unrelated to your official duties. However, it is the responsibility of the official to present information to the Board demonstrating why this representation should be deemed wholly unrelated to his official duties. We are therefore requesting that you advise the Board by providing the following information:

- (1) A statement regarding your duties and responsibilities as [REDACTED] of the [REDACTED] Commission;
- (2) A statement regarding the extent of the jurisdiction of the [REDACTED] Commission;
- (3) Any other information which will demonstrate whether your duties as [REDACTED] of the [REDACTED] Commission are wholly unrelated to representation of the company in question.

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Section II. THE GOVERNMENTAL ETHICS ORDINANCE

Post-employment Restrictions  
(Section 26.2-10)

As a former alderman of the [REDACTED] Ward, your conduct will be governed by Section 26.2-10 of the Governmental Ethics Ordinance, which states:

(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 will be permanent as to that contract.

Although, these post-employment restrictions do not take effect until July 1, 1987, there is case law and precedent from other state ethics commissions to indicate that these restrictions may be applicable to officials and employees who left prior to the effective date of the Ordinance. This issue regarding application of post-employment restrictions will be decided by the new Board members to be appointed by the Mayor.

Regardless of the decision rendered by the new Board members on that issue, however, it is apparent that the post-employment restrictions of Section 26.2-10 will not apply in this instance since you were not substantially involved with the subject of parking meters during your tenure as alderman of the [REDACTED] Ward. This conclusion is based on the premise that merely voting as a member of City Council on matters related to public parking does not constitute "personal and substantial involvement."

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Section III. - THE SULLIVAN PROPOSALS

In his report of March 16, 1987, Special Assistant Thomas P. Sullivan, recommended that the post-employment restrictions of the Governmental Ethics Ordinance should be amended to exclude legislative branch officers and employees. If this recommendation were to be implemented, your ability to represent the company in question would not be affected.

Although we have concluded that neither the post-employment restrictions of the Governmental Ethics Ordinance nor the Sullivan proposals will prohibit you from representing the company in question, the Board has not yet determined the propriety of such action under Executive Order 86-1. We therefore urge you to submit the information requested in Section I of this letter so we may render a formal decision in regards to this matter.

Sincerely,

*Robert C Howard*

Robert C. Howard  
Chairman

JS/jh- [REDACTED]