



EMUS

[REDACTED]

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

[REDACTED]

RE: Case No. 96037.Q

Dear [REDACTED]

You are a former [REDACTED] at the Chicago Department of [REDACTED] "D", and are now working as Vice President at [REDACTED] Bank [REDACTED] for [REDACTED] real estate. -In a letter dated [REDACTED], you asked for an opinion from the Chicago Board of Ethics on how the Governmental Ethics Ordinance affects the activities you perform in your new job.

It is our opinion that, while the post-employment provisions of the Ordinance apply to you with respect to the duties and responsibilities you performed during your City employment, those provisions do not prohibit you from undertaking the particular post-employment activities with [REDACTED] Bank you described to us. Our analysis of the facts you presented under the Ethics Ordinance is set forth in this letter.

FACTS: You worked for the City of Chicago, [REDACTED], from [REDACTED] until [REDACTED] the date you resigned from City employment. You worked primarily with affordable housing loan programs for multi-family residential development projects. On [REDACTED], you began your new employment as Vice President for [REDACTED] Real Estate at [REDACTED] Bank.

In your new position, you said, you are responsible for originating, structuring, and closing loans for [REDACTED] real estate projects in the Chicago area as well as northern Illinois and southern Wisconsin. These loans are for [REDACTED] projects, all of which, you said, are privately-financed--they involve market-rate transactions and require no City action. You



City of Chicago
Richard M. Daley, Mayor

Board of Ethics
Dorothy J. Eng
Executive Director
Angeles L. Eames
Vice Chair

Darryl L. DePriest
Emily Nicklin
Martin E. O'Donovan
Michael F. Quirk

Room 303
320 North Clark Street
Chicago, Illinois 60610
(312) 744-9660
(312) 744-2793 (FAX)
(312) 744-5996 (TTY)
<http://www.ci.chi.il.us>

stated that [redacted] Bank's role on these projects is solely that of first lender; it has no participation as developer, owner, or sponsor. All development activities on these projects, including any necessary rezoning, variance petitions, and testimony at public hearings, are the responsibility of the developer/borrower, and do not involve [redacted] Bank.

You said that, in your position with [redacted] Bank, you do not anticipate working on any projects that involve affordable housing or applications for public funding, and you do not expect to have any dealings with the City on loans or any other matters. Further, you said you will not be involved in any contracts resulting from development proposals considered by [redacted] during your City service.

In your City position as [redacted], you said you were responsible for managing the [redacted] division, which underwrote and reviewed multi-family residential development projects for which the City provided or administered funding. Your division analyzed the project proposals submitted by developers and structured appropriate funding plans. The proposals were then reviewed by [redacted]'s internal and external loan committees, which made recommendations to City Council for approval and funding. All of these projects involved affordable housing financing in which City funding was subordinated to that provided by the developer's first mortgagee. You served as a voting member of the internal loan committee and as an ex-officio member of the external loan committee. You said you participated fully in [redacted]'s process by which individual development projects were structured and approved by the loan committees. In addition, you managed two lending programs of the division, the [redacted] Program and the [redacted] Program.

You said that, during your City service, [redacted] Bank participated in two projects that came before your division and were processed through the loan committees. Both were single-room occupancy projects. The [redacted] project at [redacted] received a \$ [redacted] million loan, and the [redacted] project at [redacted] received a \$ [redacted] million loan. You stated that you did not work on either of these projects, but you were present at the loan committee meetings at which they were considered and approved. You also said you did not participate in the negotiation or drafting of any loan documents for these projects. To the best of your knowledge, at the time you left City employment, the loan for the first project had been closed, and the ordinance authorizing the second was pending.

You said you have no knowledge about the status of these projects beyond your involvement with them through the loan committees. You told us you do not expect to have any involvement with either of these projects in your position with [REDACTED] Bank.

LAW AND ANALYSIS: The relevant provision of the Ethics Ordinance is Section 2-156-100(b), entitled "Post-Employment Restrictions." It states:

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.

Section 2-156-010(g) defines "contract management authority:"

"Contract management authority" means personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

This Section imposes both a permanent and a one-year prohibition.

Permanent Prohibition. You are permanently prohibited from assisting or representing any person in a contract if while a City employee, you exercised "contract management authority," as defined above, with respect to that contract. "Contract management authority" under the Ordinance includes the evaluation of proposals resulting in City contracts and direct supervisory responsibility over the formulation of City contracts (Case No. 94019.A). Your description of your City activities shows that, as [REDACTED], you evaluated or exercised direct supervisory responsibility over your division's staff and its evaluation of development proposals that resulted in City contracts. Therefore, you exercised contract management authority over those projects and are

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prohibited permanently by the Ordinance from assisting or representing any person, including ██████████ Bank, on any City contract that resulted from a proposal that you evaluated or over whose evaluation you exercised direct supervision while you were ██████████.

You indicated that you do not intend to assist or represent anyone with respect to any contracts resulting from specific development proposals considered by (D) during your tenure as ██████████. As long as that is the case, the permanent provision of Section 2-156-100(b) does not prohibit you from undertaking the duties with ██████████ Bank that you have described. Be advised, however, that under the permanent prohibition, you may not assist or represent any person with respect to any contracts over which you exercised management authority while employed by the City.

One-Year Prohibition. You also are prohibited for one year after leaving City service from assisting or representing any person, including ██████████ Bank, in a business transaction involving the City if, while a City employee, you participated personally and substantially in the subject matter of that transaction. You said you do not expect your post-City employment with ██████████ Bank to entail any business transactions involving the City, because the projects on which you work do not involve public financing. As long as that is the case, the one-year prohibition does not restrict the post-employment activities you have described with ██████████ Bank. If within one year, however, you are asked to participate in any business transaction concerning affordable housing projects in the City or related financing, we advise you to return to us at that time for guidance, as the one-year provision may prohibit you from involvement with those projects.

Please be advised that the Ordinance also imposes a continuing obligation on all former City employees and officials, under Section 2-156-070, not to use or disclose any confidential information they may have acquired during the course of their City service.

Our opinion in this case is based upon the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts presented are incorrect or incomplete, please notify us immediately, as any change in the facts may alter our opinion. Other laws or rules also may apply to this situation.

We appreciate your bringing this matter to our attention and your willingness to abide by the standards embodied in the

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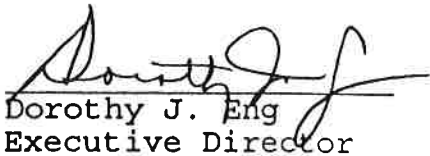
Ethics Ordinance. If you have any further questions about this or any other matter, please do not hesitate to contact us.

Sincerely,



Steven I. Berlin
Deputy Director

Approved:



Dorothy J. Eng
Executive Director

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