

EMW



ADVISORY OPINION
CASE NO. 92030.A
CONFLICT OF INTERESTS AND RELATED ISSUES

To: [REDACTED]

Date: December 16, 1992

City of Chicago
Richard M. Daley, Mayor

Board of Ethics
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Executive Director

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On August 10, 1992 you wrote this office on behalf of a client, requesting an advisory opinion about a series of ten situations, presented hypothetically, that might present a conflict of interest or other violation of the Governmental Ethics Ordinance. In your correspondence, you included a proposed answer to each question based on your research. By telephone August 17, you gave assurances to the staff that you sought answers to these questions on behalf of a person who is personally and directly involved in the hypothetical situations described.

On October 28, the Board rendered a decision on questions 1, 4 and 7, which it issued to you in an advisory opinion on November 20. Also on November 20, the Board rendered a decision on the remaining questions, questions 2, 3, 5, 6, 8, 9 and 10. Please be advised that the Board's determination on these hypothetical questions is based on the facts you hypothesized and is strictly limited to the concerns expressed in your responses, which are based on your research. Any changes or additions to the facts could alter the Board's opinion. Please be advised also that this opinion is strictly limited to an application of the Governmental Ethics Ordinance; there may be other rules or laws relevant to the situations you pose.

You ask us to assume the following facts: an alderman owns a real estate company involved in various aspects of real estate management, brokerage, construction and architectural inspection. The questions and the Board's determinations follow.

Question 2:

2. May the Real Estate Company deal in property previously owned by the City of Chicago by purchasing such property (but not from the City), acting as a broker with respect to such property, or acting on behalf of the owner as general contractor or construction manager with respect thereto?



Determination on Question 2:

1. The alderman or Real Estate Company may deal with property that no longer belongs to the City.
2. The alderman must follow any other mandates of the Ordinance about economic or financial interests respecting that property, just as she would respecting any property in which she has an interest, whether or not the property was once owned by the City.

Question 3:

3. May the Real Estate Company act as sales agent with respect to property previously owned by the Department of Urban Renewal?

Determination on Question 3:

1. The alderman or Real Estate Company may act as sales agent for the current owner of property previously owned by the Department of Urban Renewal.
2. The alderman must follow any other mandates of the Ordinance about economic or financial interests respecting that property, just as she would respecting any property in which she has an interest, whether or not the property was once owned by the City.

Question 5:

5. May the Real Estate Company perform architectural inspecting services for parties doing business with the City of Chicago with respect to City property? For example, suppose a company (not the Real Estate Company) which manages City property on behalf of the City wishes to hire the Real Estate Company to inspect the property. Would the Real Estate Company's participation in providing inspectional services involve the alderman in a conflict of interest or create an otherwise impermissible interest in City business?

Determination on Question 5:

1. The Real Estate Company, hired by a second company, may perform architectural inspecting services on City property for the second company if the following conditions are met:
 - (a) either the contract is worth less than the threshold amount to constitute a "financial interest" (\$5,000, or \$2,500 yearly), or, alternatively,

(b) the Real Estate Company is paid from general funds of the second company, and not from City funds or funds administered by the City or authorized by ordinance, and, in addition to either (a) or (b),

(c) the alderman offers no advice or assistance with respect to City operations or business, including code requirements, unless her architectural inspection services are not in any way related to her official duties as an alderman.

2. The alderman is obliged by the Ordinance to carry out her City duties with respect to the company with which her Company has a contract as she would with respect to any matter in which she has an economic interest, or, if the contract reaches the level of a "financial interest" under the Ordinance, as she would with respect to any matter in which she has a financial interest.

Question 6:

6. Suppose again that a company (not the Real Estate Company) which manages property owned by the City employs the Real Estate Company to perform inspecting services with respect to property which is not owned by the City and is completely unrelated to any City business. Under these circumstances, would the Real Estate Company's participation in providing such inspectional services involve the alderman in a conflict of interest or create an otherwise impermissible interest in City business?

Determination on Question 6:

1. The alderman or Real Estate Company may provide services on non-City property for a company that also performs services for the City.

2. The alderman may offer no advice or assistance with respect to City operations or business, including code requirements, or else must ensure that the architectural inspection services are not in any way related to her official duties.

3. As stated in response to the previous question, the alderman is obliged by the Ordinance to carry out her City duties with respect to the company as she would with respect to any matter in which she has an economic interest, or, if the contract reaches the level of a "financial interest" under the Ordinance, as she would with respect to any matter in which she has a financial interest.

Question 8:

8. Please assume the following facts for purposes of this Question: Prior to being elected to the City Council, the alderman and her business partners bid on and were awarded several parcels of property that were owned by the Department of Urban Renewal. The purchase was approved by the City Council. The alderman and her partners then entered into an ongoing redevelopment agreement with the City.

Assume furthermore that after being elected to the City Council, the alderman sold her interest in the parcels to her remaining partners in order to avoid a conflict of interest or an impermissible interest in City business. Her partners have asked that the Real Estate Company continue to act as construction manager for the redevelopment project. Does the Real Estate Company's participation in such redevelopment project as construction manager involve an impermissible interest in City business or otherwise violate the Ethics Ordinance?

Determination on Question 8:

The Board finds that this hypothetical situation presents too many contingencies and ambiguities for the Board to render a meaningful opinion.

Question 9:

9. Please assume the following facts for purposes of this Question: The City is taking bids on a parcel of land currently owned by the Department of Urban Renewal. The bidders have approached the alderman and have asked whether her Real Estate Company would market the property. Would such marketing by the Real Estate Company involve a conflict of interest or other violation of the Ethics Ordinance?

Determination on Question 9:

The Board finds that this hypothetical situation presents too many contingencies and ambiguities for the Board to render a meaningful opinion.

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Question 10:

10. In order to determine, for purposes of her financial disclosure statement, whether people she deals with in her business do business with the City, does the alderman have a duty to inquire into the business dealings of her Real Estate Company's clients and customers?

Determination on Question 10:

1. The alderman has no general duty to inquire whether her customers or clients are doing business with the City.

2. If there is reason to believe that persons with whom the alderman has contracts over the threshold amounts for financial disclosure are doing business with the City, the duty to inquire arises. Whether and when the duty arises depends upon specific facts.

Catherine M. Ryan
Catherine M. Ryan
Chair

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.