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Board of Ethics

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September 7, 1989

CONFIDENTIAL

[REDACTED]
Chicago, Illinois [REDACTED]

Re: Chicago Department of Housing mortgage
Case No. 89121.A

Dear [REDACTED]

At its August 29, 1989 meeting, the Board of Ethics determined that the Governmental Ethics Ordinance (Chapter 26.2 of the Municipal Code) prohibits you from receiving loans from the Chicago Department of Housing's Multi Loan program.

We base this determination upon the following facts: You are employed by the City of Chicago [REDACTED]

[REDACTED] You were the high bidder on a building put up for sale by the Chicago Housing Authority (CHA) in December of 1988. In connection with this purchase you obtained a commitment on a mortgage from the Community Investment Corporation (CIC), non-profit organization that makes loans for housing rehabilitation. Receipt of the CIC mortgage was contingent upon your receiving a second mortgage from the Chicago Department of Housing (DOH). You then sought this second mortgage from the (DOH), a City agency. This second mortgage that you seek is for \$200,000 and would come from the DOH's "Multi Loan" program for the rehabilitation of rental properties.

The transactions with the CHA and the CIC are not improper under the Ethics Ordinance. The CHA is a state-chartered agency not under the jurisdiction of the Ordinance. And although the CIC receives a significant amount of public support, the source of this funding is the State of Illinois--not the City of Chicago--and the City has no role in the administration of the funds. The issue under the Ethics Ordinance is raised by the DOH mortgage.

The Ethics Ordinance prohibits all elected officials and employees of the City from having a "financial interest" in any City business. In pertinent part, the applicable Ordinance provision, Section 26.2-11, states:



26.2-11. Interest in City Business. 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....[Emphasis Added]

The term "financial interest" is defined in Section 26.2-1(1):

26.2-1(1). "Financial interest" means 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, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company, receivership, trust, or any legal entity organized for profit; provided, however, financial interest shall not include (a) any interest of the spouse of an official or employee which interest is related to the spouse's independent occupation, profession or employment; (b) any ownership through purchase at fair market value or inheritance of less than 1% of the shares of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (c) the authorized compensation paid to an official or employee for his office or employment; (d) any economic benefit provided equally to all residents of the City; (e) a time or demand deposit at a financial institution; (f) an endowment or insurance policy or annuity contract purchased from an insurance company. [Emphasis Added]

The Board has determined that DOH Multi Loans fall within the category of City business established by Section 26.2-11 (i.e., "any contract work or business of the City...whenever the expense, price or consideration of the contract, work or business...is paid with funds belonging to or administered by the City or is authorized by ordinance). This is because (1) loan agreements are contracts, (2) the Multi Loan program is paid for with funds administered by the City and, further, (3) the loan in question would have to be authorized by ordinance. Therefore, under Section 26.2-11, no elected officials or employees of the City of Chicago may receive these loans.

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In conclusion, as a City employee you are prohibited by the Ethics Ordinance from obtaining the Department of Housing loan in question. Your obtaining such a loan would give you an impermissible financial interest in City business.

RECONSIDERATION: This advisory opinion is based upon the facts which are outlined in this letter. If there are additional material facts or circumstances that were not available to the Board when it considered your 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 which are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this letter.

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 which is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

Should you have any questions, please contact the Board of Ethics at 744-9660.

Sincerely, .


S. Brandzel
Chair

cc: Department of Housing
Department of Law

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