

**ADVISORY OPINION**  
**CASE NO. 03022.A**  
**Post Employment**

To: [Sam Jones]

Date: April 16, 2003

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You are a former employee of the City of Chicago, and an attorney licensed to practice law in Illinois. From August 1, 2001, to February 28, 2003, you were an [Title in Department C ], serving as the City's "project manager" of the [The Plan], a long-term (10-year) public housing development initiative of the [Agency H]. Since March 3, 2003, you have been employed as an attorney with the Chicago law firm of [D and G ]. You have asked for an advisory opinion on what restrictions the City's Governmental Ethics Ordinance places on your activities in your post-City employment.

After carefully considering the facts presented and the relevant law, the Board has determined that the post-employment provisions of the Ethics Ordinance prohibit you, for one year from the date you left City employment, from assisting or representing any person, other than the City, with respect to Phase 1 of the development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects. This prohibition includes, but is not limited to, assisting your law firm, a client of your law firm, or any other person, with financing, building or zoning permits, condemnation or demolition proceedings, construction liens, or any other issues arising from the Phase 1 of the development of these 4 projects. As to the permanent prohibition contained in the Ordinance, the Board has determined that you did not exercise contract management authority over any aspect of these projects and, therefore, the permanent prohibition in the law does not restrict you from assisting or representing [The Law Firm ] (or any other person) as to these contracts once the one-year prohibition has passed.

We set forth below the relevant facts, our analysis of those facts under the City's Governmental Ethics Ordinance, and our determinations.

**FACTS**

I. [The Plan]. In 1999, the [Agency H] and the federal Department of Housing and Urban Development (HUD) developed the [The Plan] (The Plan), a comprehensive plan to rebuild or rehabilitate the approximately 25,000 units of public housing in the City, enough for every current, qualified resident in the 32 public housing projects throughout the City. Under the Plan, all senior

housing and scattered site housing throughout the City will also be rehabilitated. You stated that the main parties responsible for producing the Plan were HUD and the [Agency H]. City employees from the [Department of X], and the Departments of [A and V] participated in the development of the Plan, contributing advice in a number of areas, particularly those involving infrastructure improvements (streets, sewers, environmental issues, etc.) and financing.

According to the Plan, the [Agency H] will receive \$1.5 billion in federal Public Housing Capital Funds administered by HUD over a ten-year period that began in 1999. Approximately \$1.1 billion of this money has been earmarked for the actual rehabilitation and development of the 32 housing projects.<sup>1</sup> The remaining \$400 million will cover administrative costs. You stated that, in addition to the federal funds already earmarked for the Plan, the [Agency H] has anticipated that it will need approximately another \$1.5 billion over the ten-year period to complete its work. This money will come from a variety of other sources, including other federal funds, state funds, private sector funding, and funds administered by the City's Department of [A]. [A] funds are generally referred to as "gap financing" funds, as they are used to close the gap between the money available for a particular project, and the money that is actually needed.

For purposes of funding allocations, the [Agency H] has grouped its housing projects into five main categories: 1) Existing Redevelopment Commitments,<sup>2</sup> 2) Senior Buildings, 3) Scattered Sites,<sup>3</sup> 4) Section 202 Family Properties,<sup>4</sup> and 5) non-Section 202 Family Properties. Of the \$1.5 billion in Public Housing Capital Funds, \$149 million is budgeted for the Existing Development

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<sup>1</sup>For the purposes of this opinion, the term "housing projects" refers to entire individual housing developments (for example, [Location 1] or the [Location 2]) including high-rise and low-rise buildings within those developments. "Units" refers to individual apartments or dwellings within those projects.

<sup>2</sup>Existing Redevelopment Commitments consist of 8 [Agency H] housing projects that, at the time of the development of the [The Plan], were already covered under existing redevelopment commitments or were well-advanced in the planning stages. These properties are the [Project 1] Homes, [ ], [Project 4], [ ], [Project 2], [ ], and [Project 3].

<sup>3</sup>Scattered site housing is public housing located throughout the City, in areas in which public housing has not traditionally been located. The housing itself generally consists of small (12 units or less) apartment buildings, as well as single-family homes.

<sup>4</sup>"Section 202" refers to the federal Omnibus Consolidated Rescissions and Appropriations Act of 1996. Under this Act, demolition is required of any public housing project when the monthly per-unit cost to renovate and maintain any contiguous property with more than 300 units and a vacancy rate in excess of 10% exceeds the monthly cost of a housing voucher. Of the 13,762 public housing units that were subject to this test, all are scheduled for demolition. These majority of these units are located in the [4 separate locations].

Commitments, \$350 million for Senior Developments, \$77 million for Scattered Site, \$429 million for Sec. 202 Properties, and \$107 million for non-Sec. 202 properties. The remaining \$400 million is allocated to cover costs related to project management, architectural and engineering services, capital maintenance, and contingency funds. You stated that, as a general matter, [Agency H] housing projects in Categories 1, 4, and 5 require significant development (Category 4 housing projects will be completely demolished and rebuilt), while Categories 2 and 3 require less extensive work. According to the Plan, decisions regarding the timing and sequencing of rehabilitation and development are based on a number of factors. These include which projects already have funding or have existing redevelopment commitments, the need and potential for relocation resources, existing property conditions, and the availability of other sources of non-public housing funding that can be leveraged.

You stated that the majority of the Category 1, 4, and 5 housing projects are being redeveloped in phases. Depending on the size of the housing project and the extent of the work that needs to be done, there may be between 2 and 5 phases for each of the 32 housing projects. A phase consists of the construction of a set number of units or buildings within a specific [Agency H] project. The Plan outlines the number of phases required to completely develop each [Agency H] housing project, although you noted that phases may be added as time goes on and new circumstances concerning scheduling and financing arise. For example, under the Plan, the development of the [Project 2 ] Homes will take place in two phases. Phase 1, which started in late 2001, calls for the development of 152 units of housing. Phase 2, which is scheduled to commence in 2003, calls for the development of 153 units. The total number of housing units called for under the Development Plan for [Project 2 ], therefore, is 305 units, developed in 2 phases.

When a Category 1, 4, or 5 housing project is selected for development, the Plan calls for the formation of a Working Group. Each phase of the development of each housing project requires the formation of a separate Working Group. As explained in the 2002 Annual Report on the Plan, while the composition of each Working Group may vary to accommodate the needs of a particular site, the Group will generally include 2 representatives from the residents of the housing project, and 1 representative each from the Local Advisory Council<sup>5</sup> for each housing project, the [Agency H], the Habitat Company<sup>6</sup>, the *Gautreaux* plaintiff's counsel,<sup>7</sup> and the City's Departments of [A] and Planning and Development. Neither you (nor any other employee of the [Department of A]) served

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<sup>5</sup>The "Local Advisory Council" consists of business owners, community leaders, and other persons who live or work in the neighborhood where the housing project is located.

<sup>6</sup>In 1987, due to the slow pace of [Agency H] redevelopment activity in the 1970s and 1980s, the U.S. District Court appointed the [O] Company to administer [Agency H] new housing construction. The [Agency H] is prohibited from constructing new housing without the involvement of the [O] Company.

<sup>7</sup>The *Gautreaux* decree is a U.S. District Court order named for *Gautreaux v. Chicago Housing Authority*. The decree requires the vast majority of public housing to be built in integrated settings. As part of the decree, the *Gautreaux* plaintiffs, through their counsel, are entitled to representation at any proceeding that substantively impacts public housing.

as a member of any Working Group on any phase of any housing project, although you did attend Working Group meetings, as discussed in Section II, below.

Under the Plan, the [Agency H] prepares and issues Requests for Proposals or Requests for Qualifications for the development of that phase of the project. The Working Group evaluates the responses and selects a developer. That developer, advised by the Working Group, prepares a Master Plan for the property. The Master Plan is then presented to the [Agency H]'s Board of Commissioners for approval and preliminary allocation of Public Housing Capital Funds. Once preliminary funding is approved, a Development Agreement is entered into between the [Agency H] and the developer (the City, you said, is not a signatory to such agreements). The developer and the [Agency H], advised by the Working Group, create project financing proposals, seeking commitments from the City, HUD and other entities to supply additional funding. As noted above, you stated that [Department of A] gap financing plays an important role in providing such additional funding for these projects. The final responsibility for the granting of [Department of A] funds rests with the Commissioner of [A]. Also in this stage, the [Agency H] and the developer begin coordinating with the City to make those infrastructure improvements necessary to implement the Master Plan. You explained that coordinating these infrastructure improvements involves working with the Department of [U] to relocate streets, with the Department of [S] to expand sewer and water capacity, or with the Department of [J] on environmental issues. You also stated that, at this stage, the developer submits building permits and zoning applications to various City departments. The federal funds are not released to the [Agency H] until the remaining necessary financing is secured. You stated that construction begins when financing—both from the Public Housing Capital Funds and from other sources—is acquired.

As noted above, you said that a new Working Group is formed for each of the different phases. The organizations represented on the Working Group for each different phase will remain the same, but many of their representatives will differ. A new RFP/Q must be issued for each phase, a new Master Development Plan drafted, and new financing acquired. While the same developer may respond to an RFP for each phase of the same project, and may be selected as the developer for more than one phase of the same project, you stated that the Development Agreements between any developer and the [Agency H] for each phase would be separate and discrete contracts. Each Development Agreement for each phase, you said, would contain unique terms, be for different amounts of money, and have different dates of completion.

*A. Fast Track Projects.* As noted above, decisions as to the order in which the projects will be commenced and completed are contingent on a number of factors. You stated that 3 projects were put on what you described as the “fast-track” to development by the [Agency H] in September 2001, based on the criteria outlined above. Key factors in “fast-tracking” these projects were, you said, that planning had begun for the development prior to the Plan, and that preliminary financing had been acquired. These projects were the [Project 1 ] Homes, [Project 4 ], and [Project 3 ] (which consists of two separate developments: [A] and [B]). The [Project 2 ] Homes, while not initially fast-tracked, were added to this list in late 2001 as financing became available. All of these projects are in the Phase 1 of their development. You stated that, to your knowledge, the [Project 1 ] will have 3-4 phases; [Project 4 ] will have 4 phases, [Project 3 ] will have 5

phases, and [Project 2 ] will have 2 phases. Construction on the first phase of the [Project 1 ] started in late 2002. Construction on the other projects started in early 2003.

II. Your City Employment. You were hired by the City in August 2001, as an [Employee ]. You reported to [Michael ], the chief of [ ] operations in the [Department of B]. The [Department of B ] assists the [Agency H] and developers by coordinating the interaction between those entities and the numerous City Departments whose involvement is necessary to implement the Plan.

You stated that developers were directed not to contact specific City departments directly with questions or requests for assistance, but rather, to go through you if they needed to speak to a particular department or individual. You described yourself as a “facilitator,” stating that you were responsible for ensuring that the [Agency H] and the developers were put in touch with the appropriate City departments when the City’s assistance or input was needed. Generally speaking, the [Agency H] or developers would come to you when they needed City assistance or coordination, although as you gained more experience, you said that you became able to “. . . foresee issues arising,” and took the lead in putting the City and the [Agency H] and its developers together to address these issues. You stated that you kept Mr. [Klein] apprised of the status of the various projects, generally through informal, oral briefings, and that, while you occasionally submitted memos to [ Agency H ], the submission of such memos was not standard procedure.

You stated that the 4 fast-track projects (namely, [Project 1 ], [Project 4 ], [Project 3 ], and [Project 2 ]) required the most coordination between the City, the [Agency H], and the developers, and that, therefore, the [Department of B ] played a comparatively active role in facilitating this coordination. You estimated that from the time of your hiring, until the date you left City employment, you devoted approximately 90% of your time to these four projects, attending upwards of 100 meetings concerning them, including Working Group meetings. We address each of these projects, and your duties with respect to each one, below.

*A. [Project 1 ] Homes.* At the time you entered City employment, the Working Group for Phase 1 of the development of the [Project 1 ] Homes had been formed. The [Agency H] had issued an RFP for a developer, and the Working Group had reviewed responses to the RFP, and in 2000 selected a developer ([Developer A ] was selected as the developer for Phase 1). You said you did not participate in drafting the RFP, reviewing the responses, or selecting the developer. You also said you did not assist in the drafting of the Development Agreement entered into between the [Agency H] and [Developer A ], and did not review any documents or comment on any issues related to the selection of [Developer A ] as the developer.

You estimated that between August 2001 and December 2002, you attended approximately 30 meetings related to Phase 1 of the development of the [Project 1 ] Homes. These meetings included monthly Working Group meetings, and weekly meetings with representatives from the [Agency H], developer, and City to discuss specific areas of the project. The City representatives present at these weekly meetings, other than you, varied from week to week, consisting of employees from the City departments whose assistance was needed at the particular time. Approximately 10

of these weekly meetings were held at City Hall, 10 at the [Agency H] or the [Department of A]'s offices, and 10 at the offices of the Habitat Company. Meetings related to infrastructure and political issues were held at City Hall, meetings related to financing were held at [Agency H] or [Department of A] facilities, while Working Group Meetings were held at the office of the Habitat Company.

You stated that you acted as chair for the meetings held at City Hall. At these meetings, the [Agency H] and [Developer A ] discussed the status of the development, noting problems that had arisen, and outlining what assistance they needed from the City. You stated that documents distributed at these meetings primarily consisted of the developer's *pro-formas*, which you described as listings of materials, manpower, and funds needed to complete Phase 1 of this project. While you reviewed these documents, you said you did not comment on their content, suggest changes, or otherwise offer any input as to the actual construction materials and costs required. If, at these weekly meetings, issues arose whose solutions required the cooperation of the City, you would then set up meetings between [Developer A ] and the appropriate City agency. You stated that, during your City employment, you arranged for [Developer A ] to meet with the Departments of [A, V, B, J, S and X] to discuss infrastructure issues, including the rerouting of roads, the laying of sewer and water lines, and the placement of trees, bushes and other landscaping details. You said you were not present at these meetings: your job, you stated, was not to offer technical expertise, but rather to ensure that the appropriate City Departments timely met with the developer.

As noted above, you provided oral reports on the content of the discussion at the weekly meetings to [Michael ]. You kept him informed as to which City departments were working with [Developer A], but did not make any recommendations as to the specifics of this work; e.g., the design of streets or the number of street lights installed. You said you did not follow-up on the results of these meetings or report on their specifics, other than to confirm that such meetings occurred.

You stated that Federal financing had already been acquired when you started work on this project, and that documents seeking additional funding had already been submitted to the Department of Housing by the [Agency H] Finance Division. You said you played no role in assisting the [Agency H] or [Developer A ] in seeking to acquire this financing, neither assisting in the preparation of documents, submitting documents, nor checking on the status of the funding applications. You also stated that you did not supervise the performance of the developer, the [Agency H], or any other person with respect to this project. Construction of Phase 1 of the [Project 1 ] Homes began in late 2002.

B. [Project 2 ] Homes. At the time you entered City employment, the Working Group for Phase 1 of the development of the [Project 2 ] Homes had already been formed. The [Agency H] had issued an RFQ, and the Working Group had reviewed responses to the RFQ, and in 2001 selected a developer ([Developer B ] was selected as the developer for Phase 1 of the [Project 2 ] Homes). You said you did not participate in drafting the RFP, reviewing the responses, or selecting the developer. You did not assist in the drafting of the Development Agreement entered into between the [Agency H] and Holsten, and did not review any documents or comment on any issues related to the selection of [Developer B ] as the developer. The only meetings you attended concerning [Project 2 ] were general [Department ] meetings where this project was mentioned

in passing. You did not attend any other meetings—either with the Working Group, or with the [Agency H] and developers-- with respect to the [Project 2 ] Homes. You stated that you played no role in the funding process for the [Project 2 ] Homes, neither assisting in the preparation of documents, submitting documents, nor checking on the status of the funding applications.

You explained that your only role with respect to [Project 2 ] Homes was in “expediting the City building permit process.” The [Agency H] and developer had agreed that City building permits were needed by a certain date in order to close the planning stage of the project. Between January and August 2002, you were contacted on several occasions by [ ], the development heads at the [Agency H], who informed you what permits [Developer B ] needed to secure. Before [Developer B ] submitted the permit applications, you met with Commissioner [ ] of the [Department S], who directed his staff to process the permits on an expedited basis. You stated that you followed up on a regular basis, contacting [Department S] permit staff every day or every other day to make sure that the permit applications were being moved along. You described yourself as playing the same role as an expeditor hired by a developer, but noted that, as an employee of the [ Department 1], your efforts carried more weight. You also stated that you did not supervise the performance of the developer, the [Agency H], or any other person with respect to this project. You stated that the requisite permits were eventually obtained, and that construction of Phase 1 of the [Project 2 ] Homes began in early 2003.

C. *[Project 3 ] Properties.* At the time you entered City employment, the Working Group for Phase 1 of the development of the [Project 3 ] Properties had already been formed. The [Agency H] had issued an RFP, and the Working Group had reviewed responses to the RFP, and in 2001 selected a developer ([Developer C ] was selected as the developer for Phase 1 of [Project 3 ]). You said you did not participate in drafting the RFP, reviewing the responses, or selecting the developer. You did not assist in the drafting of the Development Agreement entered into between the [Agency H] and [Developer C ], and did not review any documents or comment on any issues related to the selection of [Developer C ] as the developer.

You estimated that between August 2001 and December 2002, you attended 30-35 meetings related to Phase 1 of the development of the [Project 3 ] properties. These meetings included monthly Working Group meetings, and weekly meetings with the [Agency H], developer, and City to discuss specific areas of the project. You estimated that 50% of these meetings were attended by representatives from the [Agency H], developers, and the City and involved political, infrastructure and financing issues. Approximately 25% of these meetings were with the Working Group, and the remaining 25% were with outside entities, particularly Metra, with whom the [Agency H] was negotiating over a railroad right of way. As to this development, you said, you chaired the meetings held at City Hall to discuss infrastructure and political issues. Again, you stated that documents distributed at these meetings primarily consisted of the developer’s *pro-formas*, and, that while you reviewed these documents, you did not comment on their content, suggest changes, or otherwise play any substantive role with respect to the actual construction materials and costs required. You said you played no role in assisting the [Agency H] or the developer in seeking to acquire financing for this project, neither assisting in the preparation of documents, submitting documents, nor checking

on the status of the funding applications. You also stated that you did not supervise the performance of the developer, the [Agency H], or any other person with respect to this project. Construction of Phase 1 of the [Project 3 ] Properties began in early 2003.

*D. [Project 4 ].* At the time you entered City employment, the Working Group for Phase 1 of the development of [Project 4 ] had been formed, and the [Agency H] had issued an RFP. While you did not participate in drafting the RFP, reviewing the responses, or selecting the developer, you did sit in on the Working Group meetings where the developer was selected, although you did not have a vote on selection. (In late 2001 [Developer D ] were selected as the developers for Phase 1 of [Project 4 ].) You stated that these meetings occurred in September 2001, a month after you entered City service, and that you attended them to familiarize yourself with the process. The discussions at these meetings centered around the proposals presented by the various developers, and while you stated that you expressed an opinion on which one you liked, your contribution was otherwise minimal. You played no role in drafting, negotiating, or entering into the Development Agreement between [Developer D ] and the [Agency H].

You also attended approximately 30 meetings related to Phase 1 of the development of [Project 4 ] between August 2001 and December 2002. You stated that approximately 2/3 of these meetings were with the [Agency H] and the architect, and concerned the appearance of the project. You stated that [John], an [Employee ], attended most of these meetings to offer the City's input. You kept [John] informed of when these meetings were to occur, and although you generally attended, your contribution, you said, was minimal. You also attended 2 or 3 working group meetings concerning this project. You provided oral reports on the content of the discussion at the weekly and working group meetings to [Michael] on an informal basis.

You stated that Federal financing had already been acquired when you started work on this project, and that documents seeking additional funding had already been submitted to the Department of [A] by the [Agency H] finance division. You said you played no role in assisting the [Agency H] or the developer in seeking to acquire this financing, neither assisting in the preparation of documents, submitting documents, nor checking on the status of the funding applications. You also stated that you did not supervise the performance of the developer, the [Agency H], or any other person with respect to this project. Construction of Phase 1 of [Project 4 ] began in early 2003.

*E. Other Duties.* As noted above, the vast majority of your City time was spent working on the projects described above. The remainder of your time was spent on general administrative matters, departmental policy issues, and other miscellaneous activities. The only other specific activities that you think might be of importance are briefly discussed below.



In addition to the project-specific meetings you attended, you were also in attendance at approximately 3-5 meetings of senior staff from the [Department ] and the City departments involved in the Plan. You described these meetings as focusing on long-term issues. Day-to-day progress of the different projects, including those on which you worked, was not discussed. You stated that you were not expected to participate in discussion at these meetings, and that you did not do so. You stated that you were not assigned any specific work either at these meetings or as a result of discussions held there.

You explained that the only specific task you recall undertaking concerning a [Agency H] project other than the ones discussed above was ensuring that the Mayor was present at the opening of a senior housing development located at 330 West 21<sup>st</sup> Place. You stated that you arranged this with the schedulers in the [Department ], and that you played no other role in this project.

III. Your Post-City Employment. On December 28, 2002, you took a leave of absence from your City job to work on the Mayor's campaign. During this time, you were offered a position as an associate attorney with the law firm of [The Law Firm ]. You decided to accept the offer, and on February 1, 2003, you submitted your resignation to the City, effective February 28, 2003. You started your employment with the firm on March 3, 2003.

[The Law Firm ] practices in the areas of eminent domain, zoning, land use, employment litigation, and bankruptcy. You stated that you practice in the real estate section of the firm, which focuses on issues of eminent domain, zoning, and land use. In a letter to the Board dated February 28, 2003, you stated that "The members of my firm are expecting that my relationships and contacts with the City and the [Agency H] will be able to generate new business for the firm." In an interview with Board staff on March 20, 2003, you stated that you had not yet been assigned any specific projects or case files, and that your current duties involved assisting other attorneys with research and case management. You said that none of this work involved the City of Chicago, but noted that you anticipated, in the near future, being asked to assist firm clients with City zoning and permit-related issues. You reiterated your statement that the firm expected you to generate business through your City and [Agency H] contacts.

You stated that, at this time, you had no specific plans to use your City experience to generate business, but that you expect to do so before a year has passed from your departure from City service. As an example of the types of activities you contemplated undertaking, you stated that you were well acquainted with a community leader who sat on the Working Group for the St. Edmund's Meadows development.<sup>8</sup> You said that when that Working Group begins the process of selecting

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<sup>8</sup>St. Edmunds Meadows is a Category 1 project being developed under the Plan by the St. Edmunds Redevelopment Corporation, a not-for-profit developer. You played no role with respect to this project while employed by the City.

a developer, you might contact him to promote one of your firm's clients. As another example, you stated that you might contact developers working on Plan projects to offer the service of [The Law Firm ] in areas of zoning assistance, building permit assistance, and condemnation proceedings.

Although you noted that you are not familiar with all of the firm's clients and projects, you stated that, to the best of your knowledge, the only involvement that [The Law Firm ] currently has with the Plan is through its representation of [Developer E], the developer for Phase 1 of the [Project 5] development.<sup>9</sup> You said that your firm's assistance to [Developer E] has been primarily in the area of rezoning proceedings. These proceedings were completed in November 2002. No new business has been acquired from any developer working on any aspect of the Plan. You have not done any work for [Developer E] at this stage in your employment with the firm, but noted that it is conceivable that you may be asked to work on a matter involving that company. You also noted that you had not worked with any attorneys from [The Law Firm ] on matters related to the [Project 5] development, or on any other matters, while employed by the City

## LAW AND ANALYSIS

Because you have been employed by [The Law Firm ] for only a brief period, you were unable to provide the Board with any specific situations to address under the Ethics Ordinance, other than those listed above. Therefore, the Board's evaluation of how the post-employment provisions of the Ordinance apply to you focuses on the matters you worked on while in City service.

The Ordinance provision most relevant here is § 2-156-100, "Post-employment restrictions," which contains two sub-sections. The sub-section that applies to your case is § 2-156-100(b), which states:

**(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 shall be permanent as to that contract.**

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<sup>9</sup>[Project 5] is a Category 4 project being developed under the Plan by [Developer E]. You played no role with respect to this project while employed by the City.

This section of the Ordinance imposes both a one-year and a permanent prohibition on former City employees' post-employment activities. The one-year prohibition begins on the date City employment ends, not on the date an employee stops participating in specific projects or transactions. (See Case No. 94011.A, p. 7.) We analyze in turn each prohibition as it applies to the facts you presented.

**I. One-Year Prohibition.** Under § 2-156-100 (b) of the Ordinance, you are, as a former City employee, prohibited, for one year after you leave City employment, from assisting any person, other than the City, in any business transaction involving the City if you participated personally and substantially in the subject matter of the transaction while employed by the City. While you have not identified any specific transactions that you may wish to work on in your post-City employment, you did say that you anticipate being asked to provide legal services to developers involved in the development of public housing projects under the Plan. For example, you may wish to represent developers in demolition proceedings, zoning matters, and other transactions and proceedings to which the City is a party.

In order to determine what restrictions are placed on your post-City employment by § 2-156-100(b) of the Ordinance, we will analyze 3 separate issues. First, we address whether the development of public housing projects under the Plan is a business transaction involving the City. Second, we address the "subject matter" of that transaction. Third, we address whether you participated personally and substantially in that subject matter while employed by the City.

*A. Business Transaction Involving the City.* The first issue we address is whether the development of [Agency H] housing projects under the Plan constitutes a business transaction involving the City. As described above, the development of public housing projects under the Plan is carried out through Development Agreements between the [Agency H] and the various developers selected for each phase of each project. In Case No. 92035.A, which involved renovation of private property in conformance with City guidelines, the Board concluded that such renovation was a business transaction involving the City, stating that, for the purposes of Sec. 2-156-100(b), "... a transaction need not be a direct one with the City, if the City's involvement with the transaction is substantial." In the instant case, the City's involvement—which includes infrastructure improvement, the granting of building and zoning permits, and assistance with financing—is substantial, and integral to the eventual completion of these developments. Therefore, we conclude that the development of public housing projects under the Plan are business transactions involving the City.

*B. Subject Matter.* We next address the issue of the "subject matter" of the work you did with respect to the Plan. Traditionally, the Board has defined subject matter in one of two ways, depending on the facts of the case, and the nature of the employee's duties. In some instances, the Board has found that the subject matter is "site" or "program" specific, that is, it may be defined as a project at a particular site, or a particular City program, on which an employee worked during City service. In Case No. 93038.A, which involved a City employee who had served as the Director of

a property renovation program, the Board noted that recent cases had limited “subject matter” to a project or something similar, and stated that a project could be as limited as a particular building or as broad as an entire City program. In Case No. 96031.A, the Board addressed the case of a former Assistant Commissioner who was responsible for coordinating City efforts to redevelop 3 [Agency H] housing projects. The Board concluded that the subject matter of the employee’s City duties with respect to these projects was the planning and construction of replacement housing units that were part of these developments. In these cases, which involve clearly identifiable projects and physical sites, the Board has defined subject matter as a specific program or location.

In other cases, the Board has concluded that, regardless of the site or program on which an employee worked, the subject matter is “duty” or “responsibility” specific, that is, it may be defined in terms of the City duties or responsibilities that the employee carried out. In Case No. 02034.A, a former employee’s City duties included work on developing and implementing debt collection strategies, and managing the divisions that respond to customer complaints arising from the administrative adjudication process. The Board concluded that the subject matter in which the employee participated personally and substantially was the collection of types of debts owed to the City. In Case No. 02021.A, where an employee’s City duties included proposing, reviewing, and commenting on bond financing documents from the beginning of financing until the sale and closing of the bonds, the Board concluded that the subject matter in which the employee participated personally and substantially was the structuring, issuance, and administration of the debt of the City of Chicago through the issuance of bonds. In both these cases, the City employee’s duties were not specific to any one project or physical location, but rather, consisted of specific activities and areas of expertise.

In your case, you stated that although your unofficial title was City “project manager” of the Plan, you had no specific expertise in any of the areas of City involvement in the Plan (financing, construction, infrastructure improvement, etc.). Rather, you described yourself as a “facilitator,” i.e. you were responsible for ensuring that the [Agency H] and the developers met with the appropriate City departments when the City’s assistance or input was needed. Further, you were assigned to work on specific projects, i.e., the Phase 1 development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects. Based on this lack of specific expertise, and on the fact that your City duties were focused on specific development matters, carried out at identifiable physical sites, the Board believes that a “site specific” subject matter is appropriate for the analysis of your case. As facts of this case indicate that you spent the majority of your time on 4 specific projects, namely the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects, we conclude that the “site specific” subject matter in this case is Phase 1 of the development of each of these housing projects.

*C. Personal and Substantial Participation.* Finally, we address whether you participated personally and substantially in the subject matter discussed above, namely Phase 1 of the development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects.

In Case No. 96031.A, as noted above, a City Assistant Commissioner had been responsible for coordinating City efforts to redevelop 3 [Agency H] housing projects in 3 separate redevelopment areas. He had regularly attended meetings with the [Department ], other City personnel, the [Agency H], the Habitat Company, the Park District and the Board of Education to discuss all aspects of the redevelopment of 2 of these projects. With respect to the third project, he had supervised City employees in the sale of City-owned properties for construction of public housing in the area of the project, and had reviewed a report to the Plan Commission and an Ordinance package to City Council regarding the sale. The Board concluded that these activities constituted personal and substantial participation in the planning and construction of replacement housing and other buildings in the 3 redevelopment areas, and determined that the former employee was prohibited, for a period of one year, from assisting or representing any person in the development of these 3 City-designated redevelopment areas

Although you did not, while in City service, have the supervisory and personnel management responsibilities of the Assistant Commissioner in Case No. 96031.A, your other responsibilities were similar. You attended upwards of a hundred meetings (chairing approximately 1/3 of these meetings) at which various aspects of Phase 1 of the development of the [Project 1 ], [Project 3 ] and [Project 4 ] housing projects were discussed. You also assisted the [Agency H] and developers in obtaining City infrastructure, permit and financial assistance for these projects. With respect to Phase 1 of the development of the [Project 2 ] Homes, you assisted the developer and the [Agency H] by expediting the City building permit process, enabling construction to begin in a timely manner. Based on these facts, we conclude that you participated personally and substantially in Phase 1 of the development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects. Therefore, you are prohibited, for a period of one year from the date you left City employment, from assisting or representing any person with respect to Phase 1 of the development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects. This prohibition includes, but is not limited to, assisting your law firm, a client of your law firm, or any other person, with financing, building or zoning permits, condemnation or demolition proceedings, construction liens, and any other issues arising from the implementation of Phase 1 of the development of these 4 projects.

## **II. Permanent Prohibition**

As we noted above, under §2-156-100(b), a former City employee is permanently prohibited from assisting or representing any person on a contract if he or she exercised “contract management authority” over that contract while employed by the City. “Contract management authority,” defined in § 2-156-010(g),

**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.**

You have said that you played no role in preparing RFQ/Ps for Phase 1 of the development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects. You also said that you did not review responses to the RFP/Qs, and were not involved in selecting the developer for any of these projects. You did not draft contract specifications or play any other role in formulating or negotiating any contracts with the selected developers of the above-mentioned properties, nor were you involved in the negotiation of contract terms. Finally, you stated that you did not supervise the performance of the developers, the [Agency H], or any other person with respect to the development of these projects. Based on the facts you have presented, we conclude that you did not have personal involvement in or direct supervisory responsibility for the formulation or execution of any City contract for Phase 1 of the development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects while you were employed by the City. Therefore, the Board determines that you did not exercise contract management authority over any aspect of these projects and that the Ordinance's permanent prohibition does not restrict you from assisting or representing [The Law Firm ] (or any other person) as to these contracts once the one-year prohibition, discussed above, has passed.

Confidential Information. We also bring to your attention Ordinance Section 2-156-070, entitled "Use or Disclosure of Confidential Information." This section prohibits you, as a former City employee, from using or revealing confidential information you acquired through your City employment. Confidential information, for purposes of this Section, means any information that may not be obtained pursuant to the Illinois Freedom of Information Act, as amended.

**DETERMINATIONS:** Based on the facts presented, the Board determines that the post-employment provisions of the Ethics Ordinance prohibit you, for a period of one year from the date you left City employment, from assisting or representing any person with respect to Phase 1 of the development of the [Project 1 ], [Project 2 ], [Project 3 ], and [Project 4 ] housing projects. This prohibition includes, but is not limited to, assisting your law firm, a client of your law firm, or any other person, with financing, building or zoning permits, condemnation or demolition proceedings, construction liens, or any other issues arising from Phase 1 of the development of these 4 projects. The Board also determines, based on the facts you presented, that you did not exercise contract management authority over any aspect of these projects and, therefore, that the Ordinance's permanent prohibition does not restrict you from assisting or representing [The Law Firm ] (or any other person) as to these contracts once the one-year prohibition has passed.

Our determinations do not necessarily dispose of all the issues relevant to your situation, but are based solely on the application of the City Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incomplete or incorrect, please notify us immediately, as any change may alter our opinion. Other laws or rules, including the Illinois Rules of Professional Conduct (Article VIII of the Rules of the Supreme Court of Illinois), may also apply to your

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situation. We also note that any City department may adopt restrictions that are more stringent than those imposed by the Governmental Ethics Ordinance.

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

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Darryl L. DePriest  
Chair

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