

met



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Suite 530  
205 West Randolph Street  
Chicago, Illinois 60606  
(312) 744-9660

[REDACTED]

May 24, 1989

[REDACTED]

Re: Case No. 89099.A,

[REDACTED]

Dear [REDACTED]

As a recently retired City employee, you submitted a request to the Board of Ethics on the following questions:

1. How would the post-employment restrictions of the Governmental Ethics Ordinance apply to any business that you might seek with the City?
2. How would the Governmental Ethics Ordinance apply to your subcontracting on City jobs?

The Board considered your questions at its meeting on [REDACTED], and issued the advisory opinion contained in this letter. The advisory opinion is based on 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 questions, 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 within fifteen days of the date of this letter.

OPINION

**FACTS:** In [REDACTED], individual A [REDACTED] retired from employment in the City Department of [REDACTED]. Until [REDACTED] individual A was a field inspector for 50/50 sidewalk (50% paid by the City, 50% paid by the owner). From [REDACTED] until his retirement, individual A handled [REDACTED] complaints about problems



such as buckled sidewalks, potholes and drainage problems. In this position, he inspected sites of complaints, evaluated problems and recommended action. The recommendations were then sent on to the departments that would remedy the problem.

Since his retirement, *individual A* has started a concrete construction company. He described some of the types of jobs that his company might do -- garage floors, foundations, sidewalks.

The state has certified his company as a minority business enterprise, and he has applied for City certification. He is interested in bidding on City business and has been approached by contractors to subcontract on City jobs.

**DISCUSSION:**

**POST-EMPLOYMENT RESTRICTIONS**

Section 26.2-10(b) of the Governmental Ethics Ordinance 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 or 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 26.2-1(f) defines "contract management authority":

...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.

According to these sections, a former City employee is subject to two restrictions on his employment after leaving City service, a one-year prohibition and a permanent prohibition.

1. The One-Year Prohibition

[REDACTED]

A former City employee is prohibited for one year after leaving the City from assisting or representing any person in any business transaction involving the City if

A. The transaction involves a subject matter or area of City business in which the person participated as a City employee; and

B. The person's participation in this subject matter or area was personal and substantial.

2. The Permanent Prohibition

A former City employee is prohibited permanently from assisting or representing someone in a business transaction involving the City if:

A. The transaction is a contract; and

B. The person exercised "contract management authority," as defined above, with respect to this particular contract while acting as a City employee.

Accordingly, *individual A* would be prohibited for one year from contracting for services to the City if the services rendered involved him in activities and services closely related to those he provided to the City. *Individual A* would be barred permanently from engaging in any post-employment activities that involved advice or assistance on a contract which he helped formulate, evaluate, negotiate or in any way supervise while he was an employee.

It appears that *individual A* may have performed in two distinctly different jobs in his last year of employment with the City. Therefore, it is possible that some work might be prohibited only until [REDACTED] a year after he changed positions, while the ban on work closely related to his handling of ward complaints would extend to [REDACTED]

APPLICATION TO SUBCONTRACTORS

The post-employment restrictions apply to subcontractors who perform work on City jobs for general contractors. (See, e.g., Board of Ethics Case No. 88058.A, June 21, 1988.)

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The Board of Ethics hopes that this opinion has been helpful to

Page 4

[REDACTED]  
[REDACTED]

you. Since your inquiry did not involve a specific contract or employment proposal, the opinion is necessarily quite general. if you do plan to take on any particular job that raises questions under the post-employment provisions of the Ethics Ordinance, it would be prudent to seek an opinion addressing the specific facts. If you have any questions regarding this matter, please do not hesitate to call us at 744-9660.

Sincerely,

*S. Brandzel* <sup>ajr.</sup>

S. Brandzel  
Chair

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