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E. M. J.

Advisory Opinion
Case No. 93010.A, Post-Employment

Date: March 26, 1993

You called the Board of Ethics office on March 15, 1993 and requested an advisory opinion regarding your post-employment as a consultant for the City of Chicago Department of A [redacted] to work on the development of new housing programs for group X [redacted]. It is the Board's determination that, because you were not personally and substantially involved during your City tenure in the projects you will be developing in your proposed work for the Department of A [redacted], the post-employment provisions of the Ethics Ordinance do not prohibit your proposed consulting work for the City. Our analysis of the facts presented under the provisions of the Ethics Ordinance follows.

FACTS: You were employed as a [redacted] in the [redacted] Services Division of the Chicago Department of B [redacted] from 1990 until your termination last month. You characterized this division of the department as the "group Y [redacted] section;" it primarily works to provide loans and grants to developers doing group Y [redacted] housing. Your main responsibilities in that position were to administer the [redacted] program for [redacted] individuals and families, and to work with a [redacted] Program to assist [redacted]. You also worked on the development of B [redacted] Department policies for the preservation of [redacted] Housing and [redacted] buildings.

You have recently accepted a consulting contract with the Department of A [redacted]. You said your main task in this position will be outreach--to create and develop new housing programs for group X [redacted]. Your responsibilities will include promoting collaborative housing activities between public and private agencies, providing technical assistance to organizations about group X housing issues, and developing policy and position papers on group X housing issues to be used by the Department of A [redacted]. Other activities will include developing a group X Housing Focus Group,



creating a City Housing Directory for group X people , and developing models of support service programs for group X housing buildings. You will also serve as the Department of A 's liaison to the B Department as well as to private agencies. You said that, as a liaison to the B Department, you would be working predominantly with its [REDACTED] Division, which is responsible for developing housing for [REDACTED] group X and group Z . That division is separate from the [REDACTED] Division for which you worked during your City tenure. Once group X housing is created, you said, [REDACTED] your former Division would be involved, but there are currently no such programs. You told us that you did not have substantial involvement in the area of group X housing while you were employed with the City. You stated that the [REDACTED] did award a couple of grants to group X housing projects, and that among the perhaps 30-40 [REDACTED] projects, you recall one project that was for group X . This project involved a single [REDACTED] and only one of 17 [REDACTED].

You also stated that there is no overlap between the projects with which you worked in your City job and the group X housing initiatives in which you will be involved as a consultant to the Department of A , although at some time in the future, projects you help to create might seek funds from some of the federal and other sources you worked with in your City job. As far as you know, there are no such projects at this time.

You have a Bachelor of Arts degree in Social Relations. You also worked in the field of [REDACTED] housing and housing advocacy for five years before your employment with the City.

LAW AND ANALYSIS: There are two provisions of the Ethics Ordinance relevant to the facts you have presented--Sections 2-156-100(b), under the title of "Post-employment Restrictions," and 2-156-070, entitled "Use or Disclosure of Confidential Information."

Post-Employment. Section 2-156-100(b) 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.

According to these sections, a former City official or employee is subject to two restrictions on employment after leaving City service: a one-year prohibition and a permanent prohibition. A former City official or employee is prohibited for one year after leaving City service from assisting or representing any person in a business transaction involving the City if while a City employee he or she participated personally and substantially in the subject matter of that transaction. As it relates to your particular circumstances, this generally means that if, while employed by the City, you participated substantially in a particular project, you may not assist or represent anyone in that project for a year after leaving City employment.

"Assisting" and "representing" a person in business transactions involving the City encompasses helping a person to seek a contract as well as helping a person to perform a contract. (See Case No. 89119.A.) "Representation" includes a broad range of activities in which one acts as a spokesperson for another or seeks to communicate and promote the interests of one party to another, such as making personal appearances before City agencies on behalf of others, making telephone contact with City employees and officials on behalf of others, and signing or submitting proposals, contracts or other documents to City agencies, employees or officials on behalf of others. (See Case No. 91072.A.)

Under the permanent prohibition, a former City employee is permanently prohibited from assisting or representing any person in a particular business transaction involving the City if, while a City employee, he or she exercised "contract management authority" (as defined in Section 2-156-010(g)) with respect to that contract. (See Case No. 92010.A.) Therefore, if during your employment with the City, you had direct personal involvement in or direct supervisory responsibility for the formulation of a City contract--including the planning, development, or evaluation of proposals, or the selection of vendors--or the execution of a City contract, you are permanently prohibited from working on that contract after leaving City service.

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You stated that you believe in your City job you had contract management authority over some developers; we remind you that you are permanently prohibited from working on those contracts.

In regard to the one-year prohibition, you told us that, as part of your consulting work for the Department (A [REDACTED]) you will serve as the Department's liaison to the [REDACTED] Division of the (B [REDACTED]) Department, a division separate from the one you worked for as a City employee. You also stated that there is no overlap between the projects you worked with in your City job and those you will be involved in as consultant to the Department (A [REDACTED]). Because the facts you have provided indicate that you did not have substantial involvement while you were employed with the City in the projects with which you will be involved in your consulting work, it is the Board's opinion that the one-year post-employment provision does not prohibit you from performing the work with the Department (A [REDACTED]) that you described.

Confidential Information. Section 2-156-070, entitled "Use or Disclosure of Confidential Information," states:

No current or former official or employee shall use or disclose other than in the performance of his official duties and responsibilities, or as may be required by law, confidential information gained in the course of or by reason of his position or employment. For purposes of this section, "confidential information" means any information that may not be obtained pursuant to the Illinois Freedom of Information Act, as amended.

This section prohibits current and former officials and employees from revealing confidential information they may have acquired during the course of their City job. The Board reminds you that you are permanently prohibited from revealing or using any such information.

CONCLUSION: It is the Board's determination that, because you were not substantially involved during your City tenure in the projects you will be developing in your proposed consulting work, the Ethics Ordinance does not prohibit you from undertaking the projects for the Department (A [REDACTED]) that you described to us.

Our determination in this case is based upon the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or

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incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other laws or rules also may apply to this situation.

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



Catherine M. Ryan
Chair

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NOTICE OF RECONSIDERATION

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.