

May 24, 1989

[REDACTED]

Re: [REDACTED]  
Case No. 89091.A

Dear [REDACTED]

In a letter dated [REDACTED] 1989, you asked the Board of Ethics to render an advisory opinion regarding your law firm's representation of a client before the [REDACTED] Board [REDACTED]. The client is seeking an amendment to a [REDACTED]. In particular, you wanted to know what restrictions, if any, the Ethics Ordinance would place upon this representation as a consequence of your concurrent service on the [REDACTED] Commission.

This situation raises two issues under the Ordinance: (1) Whether you may personally represent the client before the Bd.; and (2) Whether other members of your law firm may undertake such representation. We conclude that Section 26.2-9 of the Ordinance will prohibit you from undertaking the representation in question for as long as you serve on the [REDACTED] Commission. As for the second issue, we conclude that Section 26.2-9 will permit other members of your law firm to represent the client before the Bd.

Section 26.2-9 states:

(a) No elected official or employee may represent, or have an economic interest in the representation of, any person other than the City in any formal or informal proceeding or transaction before any City agency in which the agency's action or non-action is of a non-ministerial nature; provided, that nothing in this subsection shall preclude any employee from performing the duties of his employment, or any elected official from appearing without compensation before any City agency on behalf of his constituents in the course of his duties of his duties as an elected official.



City of Chicago  
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Vice Chair  
Margaret Carter  
Angeles Eames  
Russell Hardin  
Rev. A. Patterson Jackson  
Marlene O. Rankin  
Suite 530  
205 West Randolph Street  
Chicago, Illinois 60606  
(312) 744-9660



(b) No elected official or employee may have an economic interest in the representation of, any person, in any judicial or quasi-judicial proceeding before any administrative agency or court in which the City is a party and that person's interest is adverse to that of the City.

(c) No appointed official may represent any person in the circumstances described in subsection (a) and (b) unless the matter is wholly unrelated to the official's City duties and responsibilities.

As an appointed official, you are subject to the qualified prohibition of subsection (c): You may not represent a person before any City agency, including the Bd., unless the matter is "wholly unrelated" to your duties and responsibilities as a member of the [redacted] Commission. The Board of Ethics has determined that the representation in question is not "wholly unrelated" for purposes of this subsection on the basis of two criteria: (1) Both the representation and your service on the [redacted] Commission involve the same subject matter, [redacted] and (2) there is a general interrelationship on this subject matter between the [redacted] Commission and the [redacted] Board [redacted] i.e. [redacted] matters that go before one agency frequently become the business of the other. Accordingly, you are prohibited from representing the client before the Bd. for as long as you serve on the [redacted] Commission.

This prohibition, however, is restricted to representations that you undertake personally. Section 26.2-9(c) does not prohibit an appointed official from having an economic interest in representations via other members of his law firm, even if those representations are not wholly unrelated to his City duties and responsibilities. The section effectively limits its firm-wide prohibition to cases involving elected officials and employees, who are held to more a stringent standard than are appointed officials (See "economic interest in representation" language in subsections (a) and (b)). Accordingly, your colleagues at the law firm may undertake the representation in question.

Finally, there are two other provisions of the Ethics Ordinance of which you should be aware. First, Section 26.2-5 prohibits appointed officials from receiving economic benefits in return for advice or assistance rendered on matters concerning the operation or business of the City. Similar to Section 26.2-9, Section 26.2-5 contains a limited exception for appointed officials who give advice or assistance concerning matters that are "wholly unrelated" to their City duties and responsibilities. However, for the same reasons as outlined above, the Board concludes that you will not be able to take advantage of this exception here. Therefore, Section 26.2-5 will prohibit you from

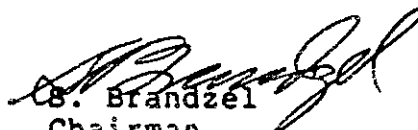
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assisting your firm with the representation in any way.

Secondly, under Sections 26.2-3 and Section 26.2-8, you cannot influence or seek to influence any City decision or action in which you have an economic interest that is distinguishable from that of the general public. As an attorney with *this law firm* you have such an interest in representations by your firm before City agencies. You should be careful to avoid even the appearance of impropriety in this regard, i.e., the appearance that your firm derives an improper advantage in its dealings with the City by virtue of your superior access to municipal government as a member of the [redacted] Commission.

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

Sincerely,

  
Cs. Brandzel  
Chairman

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