

EMMS

C O N F I D E N T I A L

February 22, 1996

[REDACTED]

Re: Case No. 96009.Q
Representation

Dear [REDACTED]

On February 20, 1996, you telephoned the Board of Ethics and asked whether the City's Governmental Ethics Ordinance prohibits you from serving as a non-compensated director of Q [REDACTED], a non-profit organization. Under the facts you presented, it is staff's conclusion that nothing in the Ordinance prohibits you from serving in this capacity. However, there are certain provisions of the Ordinance that restrict your conduct, as explained below.

You are an employee of [REDACTED] the Department of G. [REDACTED] Currently, you administer the Department's "L" [REDACTED] program, which operates in selected areas of the City. In this position, you supervise City employees who provide service "M". [REDACTED]

[REDACTED] You said that you are involved in funding decisions made by your department, but only with respect to this program.

You have been asked to serve on the Board of Q; [REDACTED] a group that works [REDACTED] to insure that proper environmental conditions exist at site X. [REDACTED]

[REDACTED] You said that Q's mission is limited to promoting these conditions solely within [REDACTED] site X. The Department of G [REDACTED], you stated, does not currently operate the [REDACTED] "L" program at site X, [REDACTED] or provide any services or funding to Q. You said that you do not believe that Q plans to seek City funding or participate in the program you administer.



City of Chicago
Richard M. Daley, Mayor

Board of Ethics

Dorothy J. Eng
Executive Director

Angeles L. Eames
Vice Chair

Darryl L. DePriest
Emily Nicklin
Fr. Martin E. O'Donovan

Room 303
320 North Clark Street
Chicago, Illinois 60610
(312) 744-9660
(312) 744-2793 (FAX)
(312) 744-5996 (TT/TDD)



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Based on these facts and previous Board opinions, it is staff's conclusion that nothing in the Ordinance prohibits you from serving as a non-compensated Q Director. However, several provisions of the Ordinance restrict your conduct, both as a Q Director and a City employee. Specifically, the Ordinance prohibits you from:

- (1) undertaking any action that would constitute "representation" of Q before any City agency, including the Department of G (in the event, for example, that Q decides to seek City funding or services and is required to appear before a City agency). This prohibition includes actions such as making personal appearances or telephone calls to City agencies or employees on another's behalf, or signing or submitting written requests or proposals to City agencies or employees on another's behalf (§2-156-090);
- (2) disclosing or using confidential information gained in the course of your City employment (to benefit Q, for example) (§2-156-070);
- (3) using City-owned property or resources for any private benefit (including Q's) (§2-156-060); and
- (4) using City time to promote private interests, such as Q's (§2-156-020).

In addition, this last section, entitled "Fiduciary Duty," requires you, while performing your public duties as a City employee, to give your undivided loyalty to the City and place the City's and public's interests before any obligations you owe to the organization.

Finally, should Q offer you compensation for this or another position, please advise us, as additional provisions and restrictions in the Ethics Ordinance would apply.

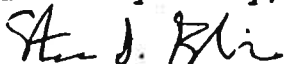
Our conclusions are based solely upon application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts are incomplete or incorrect, please notify us, as a change in the facts may alter our conclusion. Please also note that a City department may adopt and impose rules stricter than those contained in the Ethics Ordinance. Therefore, before accepting this position you should consult the appropriate people within your department.

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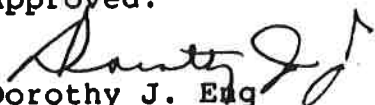
We appreciate your calling us about this matter, and your concern to abide by the standards of the Ethics Ordinance. We enclose a copy of the Ordinance for your reference. Please do not hesitate to call us if you need any further guidance.

Yours very truly,



Steven I. Berlin
Deputy Director

Approved:



Dorothy J. Eng
Executive Director

enclosure
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