

January 28, 1999

CONFIDENTIAL

Mr. [John Doe ]  
[ ]  
Chicago, Illinois 606[ ]

*outside employment  
sister agencies  
PBC, CPS*

RE: 99004.Q  
Outside Employment

Dear Mr. [Doe ]:

In a letter dated January 21, 1999, you asked whether the Governmental Ethics Ordinance prohibits you from accepting outside employment with the [Alpha Company ]. It is staff's opinion that the Ethics Ordinance does not prohibit you from accepting the position, as you have described it, although the Ordinance does impose certain restrictions, which are discussed in this letter.

FACTS: You are a[n employee ] with the City of Chicago's [Department A]. You explained that [ Alpha Company ], a for-profit corporation dedicated to the conservation of art, has approached you about working on a project it is undertaking. As you have described your City job, you do not make, or have occasion to influence, any decisions which would directly affect your employment with the [Alpha Company ].

Specifically, you have been asked to [ do work ] in the Chicago Public Schools prior to [Alpha Company's work], as well as after. You indicated that you would work on this project on weekends, vacations, and holidays. You also explained that the [ ] project is funded by the Public Buildings Commission ("PBC"). Under Illinois law, the Public Buildings Commission is organized as a municipal corporation and body politic, separate from the City of Chicago. 50 ILCS 20/4; 50 ILCS 20/14 (West 1996). One of the duties of the PBC is to repair and improve public school buildings. 50 ILCS 20/14 (West 1996). Ms. [Roe ], Financial Manager of the PBC, advised Board staff that the Public Buildings Commission is funding this project with monies it received from the Chicago Public Schools. Mr.

[Smith ], Chief Financial Officer of the Public Schools, confirmed.

**LAW AND ANALYSIS:** The provisions of the Ethics Ordinance most relevant to your proposed non-City employment are those governing "Interest in City Business," "Improper Influence," and "Conflicts of Interest." We address each of these below.

Interest in City Business. Section 2-156-110 of the City's Governmental Ethics Ordinance prohibits City employees from having a financial interest in any contract, work or business of the City "whenever the expense, price or consideration of the contract, work, business or sale is paid with funds belonging to or administered by the City, or is authorized by ordinance." As you and others have described the [ ] project, it does not entail any funds belonging to or administered by the City, or authorized by ordinance. Instead, the Public Buildings Commission is funding this project with monies it has received from the Chicago Public Schools. In light of the origin of the funds, further analysis under Section 2-156-110 is unnecessary.

Improper Influence; Conflicts of Interest. Sections 2-156-030 and 2-156-080 of the Ethics Ordinance prohibit a City employee from making, participating in making, or in any way attempting to influence City governmental decisions or actions in which that City employee has an economic interest. Economic interest is broadly defined to include "any interest valued or capable of valuation in monetary terms." § 2-156-010(i). The Board of Ethics has held that an employee has an economic interest in his outside employment. Advisory Opinion No. 98062.A. Therefore, you are prohibited from making, participating in, or attempting to use your City position to influence City decisions or actions that are related to or may enhance your outside employment. Advisory Opinion 98062.A, p. 3. As you have described your City job, you do not make, or have occasion to influence, any decisions which would directly affect your employment with [ Alpha Company]. However, if such a situation were to arise, however, Board staff cautions you to immediately recuse yourself from any consideration of the matter.

**CONCLUSION:** Based on the foregoing analysis, it is staff's opinion that the Governmental Ethics Ordinance does not prohibit you from accepting outside employment with [Alpha Company ] to [work on its project ] in the Chicago Public Schools.

As in all inquiries regarding outside employment cases, Board staff takes this opportunity to remind you that you owe a fiduciary duty to the City at all times in the performance of your public duties (§ 2-156-020); you are prohibited from the unauthorized use of City-owned property (§ 2-156-060); and you are prohibited from using or disclosing confidential information gained by reason of your City employment (§2-156-070).

Staff's opinion is not necessarily dispositive of all issues relevant to this situation, but is based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If

the facts stated are incorrect or incomplete, please notify us immediately, as any change may alter our opinion.

Other laws or rules may apply to this situation, such as Personnel Rule XX, Section 3, which delineates the requirements for secondary employment, and requires City employees to file a written request with their department head for permission to engage in outside employment. In addition, we remind you that City departments have the authority to adopt and enforce rules of conduct that may be more restrictive than the limitations imposed by the Ethics Ordinance.

We appreciate your inquiry and your concern to abide by the standards embodied in the Governmental Ethics Ordinance. We enclose a copy of the Ordinance for your convenience. Please contact us if you have further questions.

Very truly yours,

[signature]

Mary T. McDermott  
Attorney

Approved by:

[signature]

Dorothy J. Eng  
Executive Director