

CONFIDENTIAL

[], 2003

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Chicago, IL 606[]

Re: Post-Employment/Case No. 03031.Q

Dear Mr. []:

On [] 30, 2003, you contacted our office and asked whether the City's Governmental Ethics Ordinance would prohibit you from entering into a consulting contract with the City's Department of []. From [19] through [] 2003, the date you retired from City employment, you served in the Department of [], first as a [], and then, from 1996 through your retirement date, as its []. You told staff that the Department of [] and the [Office of] have approached you about consulting with the City on certain ongoing projects and areas involving the Department and specific []-related issues. You also told us that you and the Department are formulating a written consulting agreement, the "Scope of Services" of which will state: "As requested by the Commissioner of the Department of []," you would provide the Department with representation, legislative and regulatory analysis and advocacy with respect to at least nine areas. These areas are enumerated on the Scope of Services you sent faxed to our office on [] (and it is attached to this letter). You said that, during your City employment, you worked extensively on all the areas listed in this Scope of Services.

As you know, § 2-156-100 of the Ordinance, entitled "Post-Employment Restrictions," imposes a one-year and a permanent prohibition on the activities of former City employees. Former City employees are prohibited, for one year after leaving City service, from assisting or representing any person in a business transaction involving the City if they participated personally and substantially in the subject matter of that transaction while City employees. In addition, former City employees are permanently prohibited from assisting or representing any person as to a City contract if they she exercised contract management authority with respect to the contract during City employment.

However, in previous advisory opinions, the Board of Ethics determined that, provided certain conditions are met, the Ordinance does not prohibit a consulting agreement between the City and a former employee for services that are the same as, or substantially similar to, those the employee performed while

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in City service. See Case Nos. 99010.A, 93018.A. Those conditions are: 1) the City seeks the services of the former employee and stands to benefit substantially by hiring him or her as a consultant; 2) the former employee enters into the contract as an individual, and does not represent the interests of any other entity in connection with these consulting responsibilities to the City (e.g., the former employee may not perform the services as an employee of a corporation or other entity); 3) the consulting agreement is written; and 4) the agreement contains language obligating the former employee to act at all times in the best interests of the City.

Based on the facts and documents you presented, condition (1), above, is met: you told us, and the Scope of Services to your proposed consulting agreement recites, that the [] Commissioner (and, you said, the [] Office of []) seeks your assistance on the enumerated areas and projects. Therefore, staff concludes that the City's Governmental Ethics Ordinance does not prohibit you from entering into the proposed consulting agreement, provided the remaining conditions set forth in Case No. 99010.A are met, namely: (a) you enter into the consulting agreement as an individual, and do not represent the interests of any other entity; (b) the consulting agreement is in writing; and (c) the agreement contains language that obligates you to act at all times in the City's best interests.

Staff's conclusions do not necessarily dispose of all the relevant issues, and are based solely on the application of the City Governmental Ethics Ordinance to the facts stated in this letter. If these facts presented are incomplete or incorrect, please notify us immediately, as any change may alter our conclusions. We remind you that other laws or rules, including the Illinois Rules of Professional Conduct (Article VIII of the Rules of the Supreme Court of Illinois), may also apply to your situation.

We appreciate your inquiry and your concern to abide by the standards embodied in the City's Governmental Ethics Ordinance. If you have any further questions, please contact us.

Yours very truly,

Steven I. Berlin,
Deputy Director

Approved:

Dorothy J. Eng,
Executive Director