



BOARD OF ETHICS  
CITY OF CHICAGO  
MEMORANDUM

To: City Elected Officials; Aldermanic Chiefs of Staff

From: SA I Berlin  
Steven I. Berlin, Executive Director

Date: February 8, 2019

Re: Use of email lists acquired through official City governmental communications;  
Supplement to Case No. 18038.A.1

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It has been brought to the attention of our office that incumbent elected officials running for re-election and/or their staff members have used or attempted to use email lists acquired through official City business channels (for example, from efforts to ask residents to provide their email addresses to the ward office for the purpose of signing up to receive regular newsletters highlighting City events, services and information for residents) to send out electioneering communications, such as "Re-elect Alderman Jones for the 51<sup>st</sup> Ward."

**This practice is prohibited by the Governmental Ethics Ordinance.** Specifically, §§2-156-060 and -135(b) of the Ordinance read together prohibit the use of City-owned property for electioneering purposes. Email or other contact lists gathered for the purpose of distributing official City communications, like ward newsletters, thereby become and are City property. ***They may be used only for official City business purposes, such as official City communications relating to matters including but not limited to newsletters, safety, construction, or street closure communications, or zoning variances.***

The Board addressed this issue in its recent opinion discussing the use of social media (see <https://www.chicago.gov/content/dam/city/depts/ethics/general/AO-City%20Owned%20Property/18038.A.1.pdf>) but ***it's important to reiterate here that City officials and City Council employees who use or permit the use of these lists for electioneering purposes thereby violate the Governmental Ethics Ordinance.***<sup>1</sup>

Note that, in footnote 9 of that opinion, the Board recognized that such lists created for political purposes may be used for official City business purposes, but then would become City property, and could no longer be used for electioneering or other prohibited political purposes.<sup>2</sup>

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<sup>1</sup> It is allowable to post a disclaimer in connection with such email gathering or collection to enable persons giving their email addresses under the pretense of receiving official City communications to voluntarily "opt in" to receive political or electioneering communications, but this option must be clear to any person who provides their email address, and the presumption is that unless a person providing an email address specifically consents to receive political electioneering communications, their contact information may not be used for such purposes.

<sup>2</sup> See also New York City Conflicts of Interests Board Advisory Opinion No. 2017-4, at 8-9: <https://www1.nyc.gov/assets/coib/downloads/pdf5/aos/2017/AO2017-4.pdf>.

We also here remind City employees and officials that political or electioneering activity may not occur on City property, such as a ward Office where constituents come to receive or discuss City services, or with City property, such as computers, smart phones, old-fashioned phones or tablets, nor on compensated time, as defined in §2-156-010(e-3) of the Ordinance.<sup>3</sup>

Finally, we remind City employees and officials that we at the Board of Ethics are here to help you comply with these and all the other rules and standards in the Ordinance, but we cannot help you unless you contact us for confidential advice *before* you take action.

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<sup>3</sup> "Compensated time means any time worked by or credited to an employee that counts toward any minimum work requirement imposed as a condition of employment with the City, but does not include any designated City holidays or any period when the employee is on an approved vacation or leave of absence."