

MEH



City of Chicago
Eugene Sawyer, Acting Mayor

March 22, 1988

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Suite 1320
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

[REDACTED]

Case Number 88016.A

CONFIDENTIAL

Dear [REDACTED]

The Board of Ethics has reviewed your request for an advisory opinion to determine whether your wife, [REDACTED] can be considered for and accept commissions and or sell her artwork to the City through AN ART PROGRAM [REDACTED]

In your letter of January 15, 1988, you stated that the Director of the AN ART PROGRAM [REDACTED] is supervised by the Director of the Office of Fine Arts, a subdivision of the Department of Cultural Affairs. You further stated that you did not have any responsibility for this program or any other program under the jurisdiction of the Office of Fine Arts. Under these circumstances, the Board concludes that your wife may participate in AN ART PROGRAM [REDACTED]

Section 26.2-11 of the Ethics Ordinance (Interest in City Business) prohibits a City employee from having a financial interest in his own name or in the name of any other person in any work or business of the City. "Financial interest" is defined in Section 26.2-1(k) of the Ordinance as:

any interest as a result of which the owner currently receives or is entitled to receive in the future more than \$2,500 per year (and) any interest with a cost or present value of \$5,000 or more...; provided, however, financial interest shall not include (a) any interest of the spouse of an official or employee which interest is related to the spouse's independent occupation, profession or employment.



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Your wife [REDACTED] is a professional artist. Accordingly she falls within exception (a) and it is therefore permissible for her to accept commissions and/or sell her artwork to the City under Section 26.2-11 of the Ethics Ordinance.

Sections 26.2-3 (Improper influence) and 26.2-8 (Conflicts of Interest) prohibit a City employee from attempting to influence any governmental decision or participating in any governmental decision in which he has economic interest distinguishable from that of the general public. The term "economic interest" is subject to the same exclusions as "financial interest" (See Section 26.2-1(h)). Therefore, any interest of the spouse of an employee that is related to the spouse's independent occupation or profession will not constitute an "economic interest" as defined by the Ethics Ordinance. Accordingly, *your wife* will not be prohibited from accepting commissions and/or selling artwork to the City by either Section 26.2-3 or 26.2-8.

The last provision of the Ethics Ordinance at issue in this case is Section 26.2-13(b). This section of the Ordinance prohibits a City employee from exercising contract management authority where any relative of the employee is employed by or has contracts with persons (including the relative herself) doing City work.

"Contract management authority" is defined in Section 26.2-1(f) as:

personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

Insofar as you have stated that you (1) will not have any supervisory authority over the Director of the Percent for Art Program; (2) will not have any personal involvement in the program; and (3) will not participate in the contractual aspects of this program, you do not exercise "contract management authority" over the program; and therefore Section 26.2-13(b) will not be violated if *your wife* participates in the program.

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Section II.

You have also requested that the Board determine whether your wife could be considered for AN ART PROGRAM [REDACTED] project if, hypothetically speaking, the Director of the program were under your supervision. The Board concludes that under these circumstances, participation by your wife would be prohibited by Section 26.2-13(b) of the Ethics Ordinance. This section states:

No official or employee shall exercise contract management authority where any relative of the official or employee is employed by or has contracts with persons [including the relative herself] doing City work over which the City official has or exercises contract management authority.

The Board of Ethics concludes that if the Director of AN ART PROGRAM [REDACTED] were placed under your supervision, you would exercise "contract management authority" over the program itself in accordance with general principles of agency law. Thus, Section 26.2-13(b) would be violated if your wife accepted commissions or sold artwork to the City under such circumstances.

If you have any questions, please do not hesitate to contact the Board of Ethics at 744-9660.

Sincerely,



Mary L. Milano
Vice-Chair

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GOVERNMENTAL ETHICS ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government as defined in Article VII, Section 6 of the Illinois Constitution, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, it is essential to the function of democratic government that the public have confidence in the fair and honest administration of government; and

WHEREAS, that confidence can best be engendered and preserved by the avoidance of conflicts of interest, impropriety, or the appearance of them; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The Municipal Code of Chicago is hereby amended by adding a new Chapter 26.2 entitled "Governmental Ethics" as follows:

~~26.2-1. Definitions.~~ Whenever used in this chapter, the following terms shall have the following meanings:

• • • •

(1) "Economic interest" means any interest valued or capable of valuation in monetary terms; provided, that "economic interest" is subject to the same exclusions as "financial interest."