



EMUS

Advisory Opinion  
Case No. 93037.A, Interest in City Business  
Department of Housing

City of Chicago  
Richard M. Daley, Mayor

Date: November 19, 1993

Board of Ethics

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On September 29, 1993, you contacted the Board of Ethics inquiring whether the Ethics Ordinance prohibits a relative ("X"), [redacted] of the [redacted] Alderman "Y" [redacted] from receiving a [redacted] loan from the City. You are seeking advice not only about this particular proposal and loan application, but would like the Board to provide general guidance on how to proceed should your Department receive other applications from relatives of City employees or officials.

The facts presented show that [redacted] "Y" [redacted] is an alderman of the City, who, in addition to serving as a member of the City Council, also serves as [redacted] of its [redacted] Committee. These bodies must vote on or approve the relative's loan application. That application proposes to use public funds to rehabilitate the property which the Alderman leases as [redacted] residence.

It is clear to this Board that these facts create an appearance of impropriety. However, the City's Ethics Ordinance places no restrictions on the conduct giving rise to this opinion. Therefore, we conclude that, under the Ethics Ordinance, the loan is not prohibited. However, aside from what the Ordinance provides, there are several matters that warrant the serious consideration of all parties concerned.

We first note that if a relative X receives the loan he has requested from the City, because of the appearance of impropriety created by the circumstances, the public will undoubtedly question not only the motives of the parties involved but the impartial decision-making authority of the [redacted] Department and the City Council as well. Moreover, if a relative X's request is approved by the City, this approval may very well place him and [redacted] Alderman Y in an untenable position, because the facts may very well give rise to a conflict governed by Illinois law, Chapter 50 ILCS, Section 105/3a. However, even if they do not, everyone involved should be very concerned about the overwhelming appearance of impropriety that they create.



Our application of the City's Ethics Ordinance to the facts of this case follows. Please note that this opinion is limited to an interpretation of City law. We draw no conclusions as to the applicability of other rules or laws.

With respect to loan applications received from the relatives of other employees and City officials, we advise only that each must be analyzed separately under the Ordinance. As illustrated in this case, the particular facts and circumstances of each case are so pertinent to a determination that there is no general rule that can be applied with respect to such applications.

FACTS: [REDACTED] X [REDACTED] is the relative of Alderman Y [REDACTED], an elected official of the City. [REDACTED] X [REDACTED] submitted a loan application to the Department of [REDACTED] on [REDACTED], 1993, requesting [REDACTED] to renovate an [REDACTED] building located [REDACTED]. [REDACTED] seeks funds available through the [REDACTED] loan program, a federally-funded program administered by the City's Department [REDACTED]. We have obtained the information we present here about this application and the property for which he requests the loan through conversations with you, [REDACTED], and [REDACTED] of the [REDACTED], [REDACTED], from a title search, and from the application [REDACTED] submitted to the Department [REDACTED].

Our information reveals that [REDACTED] X [REDACTED] and [REDACTED], his wife, have owned the property located at [REDACTED] in joint tenancy since 1990. In 19[REDACTED], [REDACTED] signed an instrument styled as a land installment sale contract for this property. Title was conveyed by the seller in 1990 to [REDACTED] X and his wife [REDACTED] in joint tenancy, shortly after he made the final installment payment. A title search of county records shows that title to the property has not been conveyed since that transfer was recorded.

From the information presented to us, it appears that Alderman Y [REDACTED] has never had an ownership interest in this property.

In his loan application [REDACTED] also included information about the "[REDACTED] Land Trust." According to [REDACTED], a Trust Officer [REDACTED], this trust at one time owned several properties, but does not currently own, and has never owned, the property located at [REDACTED]. Y [REDACTED], along with other relatives [REDACTED] is a named beneficiary of the [REDACTED] Land Trust. [REDACTED] also confirmed that the [REDACTED] Land Trust is still maintained, though it currently has no assets, and never had an interest in the [REDACTED] property.

The application documents submitted to the Department [REDACTED] identify (relative X [REDACTED]) as the current rehabilitation project's

developer, and "Z Enterprises" as the property's management company. Z Enterprises is described in the application as a "family management team that has existed for several years." Alderman Y is not listed as an officer or employee of Z Enterprises, and [redacted] has advised us that Y would have nothing to do with the operation of the [redacted] property.

Because, on November 5, we received facts that X never disclosed either in his loan application or in conversations with our staff members, we contacted him on November 8. In this conversation, X confirmed that the Alderman, together with another person, rents a unit in the property for which he seeks funding. The list of tenants X attached with his application did not disclose the Alderman as a tenant; it named only the person with whom Ald. Y rents. According to [redacted], the Alderman and this other person pay rent equivalent to that paid by two other tenants who reside in similar units. Currently, 5 of the building's 11 units are occupied.

Following your request for an opinion in this matter you described your Department's application approval procedure, to which X's application is subject, as follows:

1. Department of [redacted] personnel review the application's financial and construction aspects simultaneously ("Internal Loan Committee"); if they pass on it, then
2. An "External Loan Committee," comprising persons appointed by the Mayor, reviews the application; if they pass on it, then
3. It is submitted to the Finance and Housing and Real Estate Committees of the City Council; if they pass on it, then
4. It is submitted to the full City Council for a vote; if approved, then
5. The Department [redacted], represented at this stage by the Law Department, meets in a "pre-closing" session with the developer to finalize the documentation.

Alderman Y serves as an officer of the Housing and Real Estate Committee of the City Council.

**ANALYSIS:** The provision of the City's Ethics Ordinance relevant to the facts of this case is found in Section 2-156-110. It states:

"No elected official or employee shall have a financial interest in his own name or in the name of any other person in any contract, work or business of the City or in the sale of any article, 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..."

Financial interest is defined in Section 2-156-010 as "(i) 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; (ii) any interest with a cost or present value of \$5,000 or more..." This section contains a prohibition against employees or officials having a financial interest in their own name or in the name of any other person in any City contract or business. ~~X~~ is neither an employee nor official--however, his relative is. Therefore, to determine whether the Ethics Ordinance prohibits ~~X~~ from receiving loan funds from the City, the Board is constrained to limit its inquiry to the narrow question of whether Alderman Y, a City official, has a "financial interest" in Y's own name or in the name of another in the proposal that relative X has submitted to the Department or in any resulting City contract. Based on the facts we have received, this Board has concludes that Y does not.

The Board bases its conclusion on the following facts. X signed an installment contract for the property in 1987. In 1990, upon payment of the last installment, the seller conveyed title to X and his wife, in joint tenancy. X and his wife have owned the property jointly since that date. Although Alderman Y has a lessee's interest in the property, it appears that Y does not have an ownership interest in this property. Additionally, we have been advised that Y is not and will not be involved in its development or management. In coming to our decision, the Board recognized that Alderman Y: 1) leases a unit in the building and thus may benefit from the proposed loan in ways that are not strictly financial; and 2) may have some potential ownership interest in the property, perhaps as an heir or legatee in the relative's will. Although we are concerned about the appearance of impropriety created by the facts of this case, we are constrained to limit our inquiry to whether such interests constitute a "financial interest" as defined in the Ordinance. Based on these facts, the Board concludes that Y's interests do not constitute a "financial interest." Therefore, it is this Board's opinion that, in these particular circumstances, the Ethics Ordinance does not prohibit relative X from receiving loan funds from the City.

**CONCLUSION:** It is clear to this Board that the facts presented create an appearance of impropriety. However, the City's Ethics Ordinance places no restrictions on the conduct giving rise to this opinion. Therefore, this Board concludes that under the Ordinance, the loan is not prohibited. However, by raising everyone's awareness of the appearance of impropriety the facts of this case

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create, then perhaps, if not our laws, good judgment will resolve the issue in everyone's best interest.

If the facts presented here are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Please be advised that our determination in this case is based only on the application of the City's Governmental Ethics Ordinance. Our opinion should not be construed to mean that, in deciding this case under the Ethics Ordinance, we have considered or applied any rules or laws other than the Ethics Ordinance. We note that a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance. Because there may well be other rules, laws, or policies that might prohibit the conduct in this case, you may wish to consult the Law Department.

RELIANCE: This opinion may be relied on by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

Catherine M. Ryan  
Catherine M. Ryan  
Chair

cc: [REDACTED]  
Susan Sher, Department of Law  
[REDACTED]  
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[REDACTED]