

MEH

October 8, 1987



City of Chicago  
Harold Washington, Mayor

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Board of Ethics  
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CONFIDENTIAL

Case Number 87081.A

Dear [REDACTED]

The Board of Ethics has reviewed your request for an advisory opinion on a matter concerning outside employment. You have informed members of our staff that you are employed as an attorney for *City department* [REDACTED] and that you have recently been asked by A [REDACTED] to advise design professionals working on the renovation of the *building project* [REDACTED] with respect to the requirements of the City [REDACTED] Code. It is our understanding that your responsibilities as a City employee are solely related to the prosecution of persons who have failed to comply with the [REDACTED] Code and that the services you have been asked to render in connection with the [REDACTED] project are limited to advising design professionals or other persons involved in the renovation of the *building* on the requirements of the Code.

Under the circumstances you describe, your proposed work as a consultant for the [REDACTED] project would not violate any of the provisions of the Governmental Ethics Ordinance (Chapter 26.2 of the Municipal Code of Chicago). However, the Board is concerned that the outside employment which you propose to engage in would give rise to an appearance of impropriety despite the absence of any actual wrong doing. These concerns are further elaborated below in our discussion of your case under the Ordinance.

I. The Governmental Ethics Ordinance

There are several sections of the Ethics Ordinance which are potentially applicable to your case. These sections (i.e. Section 26.2-5, 26.2-9, 26.2-3 and 26.2-8; enclosed) provide guidelines which attempt to regulate conflict of interest activities in City government.



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Please note however, that the restrictions contained in the Ethics Ordinance express a minimum standard for the regulation of conflict of interest situations. Accordingly, Section 26.2-44 of the Ethics Ordinance states that City agencies may adopt rules which are more restrictive than those established by the Ordinance. We therefore advise you to consult with your [redacted] Department to inquire whether any departmental rules exist which would prohibit you from working with A.

A. Section 26.2-5

Section 26.2-5 states that no employee shall accept any money in return for advice or assistance on matters concerning the operation or business of the City unless the services rendered are wholly unrelated to the employee's City duties and responsibilities and are rendered as a part of his or her non-City employment, occupation or profession. It is our understanding that your responsibilities as a consultant on the [redacted] project would be limited to advising persons as to the requirements of the [redacted] Code. If this is the case, your work in connection with the [redacted] project would not involve a violation of this section since the services you would perform would be rendered as a part of non-City employment and are distinct from and unrelated to your City responsibilities as a prosecutor for [redacted] Department.

B. Section 26.2-9

Section 26.2-9 contains two restrictions. The first restriction contained in subsection (a), prohibits employees from representing or having an economic interest in the representation of any person other than the City in any proceeding before any City agency. Subsection (b) prohibits employees from having an economic interest in the representation of other persons in judicial or quasi-judicial proceedings in which the City is an opposing party. It is our understanding that you would neither appear before a City agency on behalf of A's [redacted] private interests nor receive any economic benefit from such representation. Assuming this is the case, the restrictions contained in Section 26.2-9 would not apply to your circumstances.

However, you should note that Sections 26.2-3 and 26.2-8 of the Ordinance prohibit City employees from participating in, or attempting to influence governmental decisions concerning matters in which that employee has an economic interest. Thus, if a case concerning the building [redacted] were referred to the Prosecution Unit of [redacted] Department, you would be required, under these sections, to disqualify yourself from reviewing, commenting on, or

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in any way participating in decisions or actions concerning this matter. Conflicts of interest situations such as this are obviously undesirable and it would follow that outside employment situations which could potentially lead to such situations ought to be avoided. For this reason, the Board believes that your proposed outside employment may give rise to an appearance of impropriety despite the absence of any actual wrong doing. On the basis of the foregoing considerations, you should consider declining the offer to work on the [REDACTED] project. This is merely a suggestion; it is not a binding legal opinion based on requirements of the Ethics Ordinance.

Thank you very much for your inquiry. If you should have further questions regarding this matter, please do not hesitate to contact the Board at 744-9660.

Sincerely,

*S. Brandzel*

S. Brandzel  
Chairman

JH/jh-[REDACTED]