



CITY OF CHICAGO



BOARD OF ETHICS

CONFIDENTIAL

ADVISORY OPINION

May 17, 2022

[Senior Officer of Contributor]

Chicago, IL 606

Re: Case No. 22014.A, Campaign Financing

Dear [Senior Officer of Contributor]:

INTRODUCTION. You are [a Senior Officer of an entity that made a political contribution, as described below]. On April 13, 2022, you spoke with Board of Ethics staff via telephone. You explained that [Contributor] made a donation [in excess of \$1,500] to the [Recipient Committee], and that that [Contributor] believes this contribution is allowable under the Governmental Ethics Ordinance (“Ordinance”) after reviewing the Ordinance and the Board’s advisory opinion regarding Coordinated Political Action Committees (“PACs”) (which is case 22005.A), but you also explained that “people” are stating otherwise. You asked the Board to issue an opinion addressing whether this contribution is allowed under the Ordinance. You subsequently provided a letter explaining your position to our Executive Director, with exhibits attached, dated May 4, 2022.

As explained below, the Board has analyzed [Contributor’s] contribution under the relevant provision of the Ordinance, as well as under advisory opinion 22005.A. We have concluded that [the Recipient Committee] is a Ballot Initiative Committee, and thus is not a candidate for City office, or an elected official of the government of the City, or an official or employee of the City, or a PAC or a non-official candidate political committee within the meaning of those phrases in the Ordinance and advisory opinion 22005.A. Thus, we have determined that [Contributor’s] contribution to [the Recipient Committee], in the particular circumstances present here, is not prohibited by the Ordinance.

Our determination is based on our conclusion that [the Recipient Committee] is a Ballot Initiative Committee and the Ordinance does not limit campaign donations to Ballot Initiative Committees.

FACTS

Summary of Telephone Conversation

On April 13, 2022, you and a member of our legal staff spoke by telephone. You said that [Contributor] made a contribution [in excess of \$1,500] to the [the Recipient Committee]. You explained that there are two maps being supported for the City’s Ward remap process and the [map associated with the Recipient Committee] is one of them. You also said that “people” are claiming that this is an improper contribution under the Ethics Ordinance, and desire an opinion from this Board to clear [Contributor’s] name.

Summary of Letter

You became aware of a press release that questioned whether [Contributor] violated the Ordinance by making a [contribution in excess of \$1,500] to [the Recipient Committee].¹ You immediately called the Board to address the allegation that [Contributor] may have violated the Ordinance. You acknowledge that [Contributor’s] political contributions must conform to the limits set in the Ordinance.

Your letter explains that [the Recipient Committee] was created to pay for expenses associated with boosting the ward remap proposal it supports, and that, to the best of your knowledge, [the Recipient Committee] is not affiliated with any individual City elected official or candidate for City elected office, has not transferred any money to any candidate’s official political fundraising committee, and does not have any hidden beneficiary.

Summary of Contribution

According to documents filed by [the Recipient Committee] on the Illinois State Board of Elections (“ISBE”) website, the purpose of [the Recipient Committee] is “[t]o support the [the Recipient Committee’s] ordinance for the fair, transparent, and equitable redistricting of the City of Chicago at the June 28, 2022 General Primary Election.” On [the Recipient Committee’s] Form D-1 Statement of Organization, also available on the ISBE’s website, this is a “Ballot Initiative Committee.” The Illinois Election Code defines Ballot Initiative Committee as “any ...group of persons that accepts contributions or makes expenditures...in support of or in opposition to any question of public policy to be submitted to the electors or that makes electioneering communications...related to any question of public policy to be submitted to the voters...”² Under section 7 of the D-1, which asks filers to list “candidate(s) the committee is supporting or opposing,” the filer wrote “N/A.” The mailing address of [the Recipient Committee] is listed as [address] Chicago, which an internet search shows is the mailing address for the law firm of [].³

¹ Please note that on the Illinois State Board of Elections website, they mark this donation date as 2022. Therefore, we will refer to 2022, as the donation date.

² See 10 ILCS 5/9-1.8(e).

LAW AND ANALYSIS

1. The City’s Campaign Financing Ordinance. Section 2-156-445(a) of the Ordinance, entitled “Limitation of Contributing to Candidates and Elected Officials,” provides, in relevant part:

No person who has done business⁴ with the city, or with the Chicago Transit Authority, Board of Education, Chicago Park District, Chicago City Colleges, or Metropolitan Pier and Exposition Authority within the preceding four reporting years or is seeking to do business with the city, or with any of the other aforementioned entities, and no lobbyist registered with the board of ethics shall make contributions in an aggregate amount exceeding \$1,500.00: (i) to any candidate for city office during a single candidacy; (ii) to an elected official of the government of the city during any reporting year of his term; or (iii) to any official or employee of the city who is seeking election to any other office.

To be subject to the \$1,500 contribution limitation, then, a person or entity, including a firm like [Contributor], must be a registered lobbyist, or “doing” or “seeking to do business” (or have done business in the last four years) with the City or one of its named sister agencies. We have confirmed that [Contributor] has done business with the City within the preceding four reporting years.⁵

2. Advisory Opinion 22005.A Limitation of Contributing to Candidates and Elected Officials.

In February 2022, the Board issued a significant, precedential case – Case No. 22005.A, which you refer to in your request for an advisory opinion, in which the Board enumerated factors it would consider in determining whether a political fundraising committee *other* than a candidate’s or elected official’s *official* candidate committee—for example a PAC organized as such under the Illinois Election Code—will *also* constitute the candidate’s or official’s committee, thereby subjecting its contributors to the contribution limitations in the Governmental Ethics Ordinance. The Board set out numerous factors it would analyze to determine this. However, that advisory opinion is not on point here. [the Recipient Committee] is a Ballot Initiative Committee, not a PAC. The Illinois Election Code defines Political Action Committee as “any...organization or group of persons...that accepts contributions or makes expenditures...on behalf of or in opposition to a candidate or candidates for public office...[or] that makes electioneering communications...related to any candidate or candidates for public office.”⁶

Therefore, the issue now before the Board is to review the relevant ordinance and determine whether [the Recipient Committee] is (i) a candidate for City office; (ii) an elected official of the government of the City; or (iii) an official or employee of the City who is seeking election (or to any of their authorized committees), as is required for the \$1,500 limitation to apply.

⁴ Per §2-156-010(h) of the Ordinance, “doing business” means any one or any combination of sales, purchases, leases or contracts to, from or with the City or any City agency in an amount in excess of \$10,000.00 in any 12 consecutive months.

⁵ See:

https://www.chicago.gov/content/dam/city/depts/dgs/InformationTechnology/ContractorReports/2022/02_February2022.pdf

⁶ See 10 ILCS 5/9-1.8(d)

[the Recipient Committee] is a Ballot Initiative Committee, per its ISBE D-1 filing. In that same filing, [the Recipient Committee] did not list any candidates it is supporting or opposing. In addition, the address listed for [the Recipient Committee] links to a law firm. There is no evidence available to the Board that [the Recipient Committee] is a committee for a candidate for City office, or a committee for an elected official of the government of the City, or a committee for an official or employee of the City who is seeking election (or to any of their authorized committees). Instead, the evidence available shows that [the Recipient Committee] is a Ballot Initiative Committee designed to collect funds to influence any upcoming referendum to redistrict the City of Chicago's 50 wards at the June 28, 2022 Election.⁷

DETERMINATION. For the reasons explained above, the Board has determined that [Contributor's] [contribution in excess of \$1,500] on [date in 2022], to [the Recipient Committee], in the particular circumstances present here, is not prohibited by the Governmental Ethics Ordinance.

RELIANCE. This opinion may be relied upon by any person involved in the specific transaction or activity with respect to which this opinion is rendered.

RECONSIDERATION. This advisory opinion is based on the facts set out in it. If there are additional material facts and circumstances not available to the Board when it considered this case, you may request reconsideration of this opinion. As provided in our Rules and Regulations available on our website, a request for reconsideration must: (i) be in writing; (ii) explain the material facts and circumstances that are the basis for the request; and (iii) be received by the Board within fourteen (14) days of the date of this opinion.

Sincerely,

William F. Conlon
Chair

⁷ Please note that, pursuant to Section 2-156-445(c), of the Ordinance, although unlikely, if [the Recipient Committee] were to transfer more than 50% of its total receipts in 2022 to: (i) any political fund-raising committee of a candidate for City office or elected official; or (ii) any political fundraising committee which, during the reporting year in which the contribution is to be made, has itself made contributions or given financial support in excess of 50 percent of that committee's total receipts for the reporting year to a particular candidate for City office, elected official, or the authorized fundraising committee of that candidate or elected official, contributors to [the Recipient Committee] shall be considered as having contributed to that candidate or elected official.