

CONFIDENTIAL

June 2, 2004

[John Doe]

Chicago, IL 606XX

Re: Case No. 04023.Q

Dear Mr. [Doe] ,

Yesterday morning, our office received your letter, dated May 8 (another copy was received this morning), in which you describe your job offer with [RR] , and briefly describe your duties for 26 years as a [Construction Specialist with the Department of [O] . In your letter, you formally requests a hearing from the Board of Ethics concerning your job offer. Please note that the Board of Ethics does not typically grant hearings, and that this letter addresses your situation completely.

In your letter you state that on February 29, 2004, you took advantage of the City's early retirement incentive program. As you are likely aware, the City's Governmental Ethics Ordinance restricts the activities of former City employees in two ways. Section 2-156-100(b) of the Ordinance restricts your ability to perform certain services or work on certain matters, for Solid Builders, or any other person, for either one year, or permanently. It provides:

No former ... employee shall, for a period of one year after the termination of the ... employee's ... employment, assist or represent any person in any business transaction involving the City or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract.

Under the first clause of § 2-156-100(b) you are, as a former City employee, prohibited for one year after leaving City service from assisting or representing any person (including [RR]), in any business transactions involving the City if you participated personally and substantially in the subject matters of those transactions while a City employee.

You state in your letter that your duties for the Department of [O] "consisted of preparing construction specifications for the various programs the Department administers, and then inspecting the completed projects for code compliance and Department of [O] Performance Standards." Based on these facts, Board staff concludes that you were personally and

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substantially involved in the "subject matters" of preparing and interpreting construction specifications for Department of [O] programs and inspecting and reviewing completed projects for code compliance. You are therefore prohibited, for one year after you left your City service, from assisting any person, including [RR], in any transactions involving construction specifications or code compliance for Department of [O] projects.

In fact, your proposed duties for [RR] would be to do the very same thing for it, namely, administer its roofing contract with Department of [O], accompany the Department's Construction Specialist, prepare specifications, and oversee construction and quality control for its Department projects. Therefore, you are advised that you are prohibited for one year after you leave City employment, from performing the functions you have indicated that [RR] wishes you to perform for it. Were you to accept the position with [RR] and perform the duties you describe in your letter, you would violate the City's Governmental Ethics Ordinance. Section 2-156-430 of the Ordinance provides that any contract performed in violation of the Ordinance shall be voidable as to the City. Be further advised that a violation of the Ordinance could place [RR]'s contract with the Department of [O] in jeopardy.

We note that you state in your letter that your assignments were provided by your supervisors, and that at no time did any Construction Specialist have the authority to select or influence the selection of Departmental contractors. This fact would indicate that you did not have or exercise contract management authority over the contract that [RR] has with the Department of [O], and that the Ordinance's permanent post-employment restriction would likely not apply to the position you describe. You are, in any event, nonetheless prohibited from performing the proposed duties described in your letter for one year after your City service ended.

Our conclusion does not necessarily answer all the issues relevant to your situation, but is based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts stated are incorrect or incomplete, please notify us immediately, as any change may alter our conclusions. Other laws or rules also may apply to this situation.

We appreciate your inquiry and your concern to abide by the standards embodied in the City's Governmental Ethics Ordinance. You can view the Ordinance at www.cityofchicago.org/Ethics. If you have any further questions, please do not hesitate to contact us by phone or again in writing.

Yours very truly,

Steven I. Berlin
Deputy Director

approved:

Dorothy J. Eng,
Executive Director

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