



August 13, 1990

**C O N F I D E N T I A L**

[REDACTED]

Re: **ADVISORY OPINION**

Case No. 90026.I

Dear [REDACTED]

Thank you for your letter of April 23, 1990. The Board of Ethics has concluded its investigation into the post-employment activities of INDIVIDUAL A [REDACTED], which investigation was initiated at your request. This response is deemed the opinion of the Board.

The relevant facts which the Board considered in this case are as follows: [REDACTED] INDIVIDUAL A was employed with DEPARTMENT M [REDACTED] from [REDACTED], until [REDACTED], in the capacity of POSITION G [REDACTED], and from [REDACTED], until [REDACTED] as POSITION R [REDACTED]. Your request focused on INDIVIDUAL A's involvement with PROPERTY J. [REDACTED]

[REDACTED]

[REDACTED]. By court order, HUD was given possession of the property. Pursuant to a 1987 agreement between HUD and CORPORATION W [REDACTED], owned by INDIVIDUALS B & C [REDACTED] title to the property was given to the PARTNERSHIP X [REDACTED], for which CORPORATION W [REDACTED] is the general partner. Rehabilitation began on the property as a cooperative housing project. B & C [REDACTED] obtained numerous governmental loans and tax credits for this rehabilitation. A [REDACTED] Rental Rehabilitation Loan was given by the City of Chicago for the cooperative project at an interest rate of 3 percent. While employed in your department, INDIVIDUAL A [REDACTED] was actively involved in



City of Chicago  
Richard M. Daley, Mayor

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Section 26.2-1(g) defines "contract management authority" 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."

According to these sections, a former City official is subject to two restrictions on his employment after leaving City service: a one-year prohibition and a permanent prohibition.

- I. **The One-Year Prohibition:** a former City official is prohibited for one year after leaving City service from assisting or representing any person in any business transaction involving the City if:
  - A. The transaction involves a subject matter or area of City business in which the person participated as a City official; and
  - B. The person's participation in this subject matter or area was personal and substantial.
- II. **The Permanent Prohibition:** in regard to these same activities, a former City official is prohibited permanently from assisting or representing someone in a business transaction involving the City if:
  - A. The transaction is a contract; and
  - B. The person exercised "contract management authority" as defined above, with respect to this particular contract while acting as a City official.

**ANALYSIS:** (1) As set forth above, the City made the 3% interest Rental Rehabilitation Loan to CORPORATION W. [REDACTED] According to Corporation Counsel and your department, [REDACTED] INDIVIDUAL A's participation in [REDACTED] PROPERTY [REDACTED] housing project included: (A) his personal and substantial involvement in the structuring of the housing project to qualify for that City loan; (B) his personal involvement in the negotiation of the terms of the loan itself; (C) the execution of the loan; and (D) supervision of performance after the loan was made. According to the Ethics Ordinance, this involvement with the housing project clearly constitutes "contract management authority," rendering him subject to the permanent prohibition of Section 26.2-10. This section permanently prohibits him from assisting or

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representing any person in any business transactions involving the structure of, or City financing of, the 'PROPERTY J' ██████████ project.

(2) Given that ██████████ INDIVIDUAL A's ██████████ transactions with the CHA, which were aimed at converting the structure of the housing project from a cooperative to a rental property, necessarily would require the renegotiation of the terms of the City loan, his effort toward this conversion does constitute a "business transaction involving the City," according to Section 26.2-10(b) of the Ethics Ordinance.

(3) After his City employment was terminated, ██████████ INDIVIDUAL A ██████████ began assisting ██████████ CORPORATION W ██████████ in the restructuring of the same ██████████ project over which he exerted contract management authority during his City employment. That assistance involves changing (A) the nature of the project to which the City Rental Rehabilitation Loan applied, and (B) the terms of the City loan itself. Therefore, ██████████ INDIVIDUAL A ██████████ is in violation of the permanent prohibition of Section 26.2-10(b).

CONCLUSION: According to the facts as they have been presented to us, it is clear that, in his present consulting position for ██████████ CORPORATION W ██████████, ██████████ INDIVIDUAL A ██████████ is engaged in assisting the ██████████ CORPORATION W ██████████ in restructuring the project over which he had contract management authority during his City employment. That restructuring would change the cooperative housing project, for which the City made its loan, into a rental property controlled by ██████████ CORPORATION W ██████████ which also would necessitate changing the terms of the loan which the City made to the developers under ██████████ INDIVIDUAL A's ██████████ supervision.

It is therefore the opinion of the Board that:

(1) ██████████ INDIVIDUAL A's ██████████ involvement in the ██████████ PROPERTY J ██████████ project while employed with the City is considered to constitute "contract management authority," rendering him subject to the permanent prohibition of the Post-Employment provision of the Ordinance;

(2) ██████████ INDIVIDUAL A's ██████████ involvement since leaving the City's employ in the attempt to convert the housing project from a cooperative into a rental property is considered "assisting" ██████████ CORPORATION W ██████████ in a "business transaction involving the City" because it would necessitate renegotiating the terms of the City loan over which he exerted contract management authority in his City employment; and

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(3) INDIVIDUAL A's consulting work for CORPORATION W involving the restructuring of the PROPERTY J project is in violation of the permanent prohibition of the Post-Employment provision (Section 26.2-10) of the Ethics Ordinance.

A letter has been sent to INDIVIDUAL A advising him to immediately stop all activities involving the restructuring of the PROPERTY J project, and to refrain from engaging at any time in the future in any assistance to, or representation of, any person in any business transaction involving the structure of the housing project for which the City loan was made, or involving that City financing itself. A copy of this letter is enclosed.

The Board also has recommended to Corporation Counsel that if INDIVIDUAL A continues to violate the Ordinance, appropriate legal action should be pursued by the Law Department.

Thank you very much for your assistance in this matter. If you have any questions, please contact the staff of the Board of Ethics at 744-9660.

Sincerely,

  
Albert Hofeld  
Chairman

jgj/tl:90026.L3

cc: Kelly R. Welsh, Corporation Counsel  
Department of Law