

MEH



City of Chicago
Richard M. Daley, Mayor

Board of Ethics

Dorothy J. Eng
Executive Director

Albert F. Hofeld
Chair

Angeles L. Eames
Vice Chair

Margaret Carter
Darryl L. DePriest
Fr. Martin E. O'Donovan
Marlene O. Rankin
Catherine M. Ryan

Room 303
320 North Clark Street
Chicago, Illinois 60610
(312) 744-9660

MEMORANDUM

To: [REDACTED]

From: *[Signature]*
Albert Hofeld, Chairman
Board of Ethics

Re: Case No. 90076.A
[REDACTED]
RECONSIDERATION

Date: February 13, 1991

In its December 1990 meeting, the Board rendered an advisory opinion regarding the participation of City employees and officials in the Department of Housing's (DOH) Boulevard Program. (see attached) On January 4, 1991, you requested and were granted an extension to file a motion to reconsider. On January 14, 1991, the staff of the Board of Ethics received a letter from [REDACTED]

[REDACTED] You stated that the letter was jointly conceived by yourself and [REDACTED]. Based on the information provided by [REDACTED], the Board determines that City officials and employees may receive revolving loans from NHS of \$5,000 or more if certain conditions are met.

FACTS: The issue for reconsideration involves only the loan funds administered by NHS. No new information was provided regarding the funds administered by Community Investment Corporation.

In a telephone conversation following his letter, [REDACTED] confirmed that the letter was actually a request for clarification rather than reconsideration. In light of the Board's advisory opinion, NHS has made changes in the administration of the Boulevard Revolving Loan Fund (BRLF). The changes are as follows:

- a. If a City official or employee applies for a revolving loan from NHS, the application will go immediately to NHS's central finance committee, bypassing the loan committee on which the City representative serves.
- b. City officials and employees will not receive more than \$5,000 from funds



provided to the program by the City. In cases of loans sought by City employees or officials where the loan amount is more than \$5,000, NHS will use only \$5,000 of City funds, with the balance of the loan to come from NHS's general fund or other NHS resources.

According to [REDACTED], in addition to the \$700,000 made available for this program by the City, NHS has one million dollars from other funding sources. Once a loan is closed between NHS and a City employee or official, NHS will then report the loan to the DOH and submit a voucher for funds up to \$5,000. The voucher specifies the name of the borrower as well as the amount requested. The DOH will then review the loan, and if it is approved, funds will be submitted to NHS where they will be placed in an escrow account. Although there are not separate loan documents for City and non-City funds, NHS will keep records of the amounts of the funds from each of the sources for each borrower.

[REDACTED] also provided a few clarifications regarding some of the facts stated in the Board's advisory opinion:

1. The City does not hold any of the loans for the duration of the loan. NHS and private investors alone are responsible for holding loans.
2. City funds are not the only funds available for financing the rehabilitation of property.
3. All loan agreements made from the BRLF are between the borrower and NHS, not the financial institution.

ANALYSIS: In its advisory opinion the Board determined that in the case of the BRLF, the Boulevard Program administered by NHS, the amount of the entire loan is considered City business, and City employees and officials may not have a financial interest in City business. The reasoning of the Board was that the entire loan is City business because the funds for the initial rehabilitation loan are provided by the City and a City employee will be serving on the committee that makes the decisions on who receives the loans. First it is important to clarify that financial interest means, among other things, any interest with a cost or present value of \$5,000 or more. This means that the amount must be less than \$5,000.

The relevant new information provided by [REDACTED] is that

non-City funds are available for these revolving loans. The BRLF is just one source of loans funds. This means it is possible for a City employee to receive a revolving loan of \$5,000 or more from NHS while still receiving less than \$5,000 in funds from the City. Moreover, in situations where the loan application is from a City employee or official, the City representative no longer has a part in administering the loan because the application will skip the local loan committee on which a City employee sits. Finally, although there are not separate loan agreements for City funds and non-City funds, there are records that will document the amount of City funds given to any individual City employee or official. Given these modifications, the Board determines that City employees or officials may receive revolving loans of \$5,000 or more from NHS, as long as the part of the loan that is derived from City funds is less than \$5,000.

As for the other two clarifications provided by [REDACTED] (see nos. 1 and 3), these do not change any of the Board's determinations. In regard to the first clarification, the important fact is not who holds the loan but that in some cases loans will use City funds for the duration of the loan. In regard to the third clarification, whether the loan agreement is between the borrower and NHS or the financial institution had little bearing on the Board's decisions.

CONCLUSION: Given NHS's new provisions regarding loan applications from City employees and officials, the Board determines that only that part of the loan that is derived from City funds is City business. Consequently, City officials and employees are not limited to less than \$5,000 worth of loans from NHS's revolving loan funds, if the following conditions are met:

1. the funding of any loan to a City employee or official under the program must be limited to less than \$5,000 of City money;
2. the loan application is not reviewed by a City employee; and
3. NHS maintains documents that clearly indicate that City employees and officials have received less than \$5,000 in funds provided by the City.

Case No. 90076.A
February 13, 1991
Page 4

If you have any additional questions, please feel free to contact us.

Enclosures

cc: 

90076.M5

MEH



City of Chicago
Richard M. Daley, Mayor

Board of Ethics

Dorothy J. Eng
Director

Albert F. Hofeld
Chair

Angeles L. Eames
Vice Chair

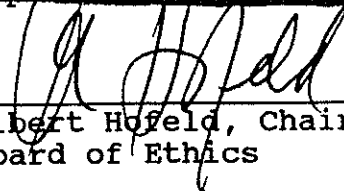
Margaret Carter
Darryl L. DePriest
Russell Hardin
Marlene O. Rankin
Catherine M. Ryan

Suite 530
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

MEMORANDUM

CONFIDENTIAL

To: [Redacted]

From: 
Albert Hofeld, Chairman
Board of Ethics

Re: **ADVISORY OPINION**
Case No. 90076.A

Date: December 20, 1990

On November 9, 1990, you telephoned to ask whether, in general, City employees and officials are permitted to participate in the "Boulevard Program" administered by Neighborhood Housing Services and Community Investment Corporation and whether, in particular, you yourself may participate. The Board has determined that the program in question is work or business of the City, and therefore, employees and officials are prohibited from having a financial interest in the program.

FACTS: The "Boulevard Program," is a rehabilitation program for properties in the vicinity of the boulevard system with an initial primary focus on the areas of King Drive from 35th Street to 55th Street, Garfield Boulevard from King Drive to Damen Avenue, and Marshall Boulevard/California Boulevard from 26th Street to Douglas Boulevard.

The Boulevard Program contains two loan funds. The first fund, containing \$700,000, will be used for rehabilitation loans for owner-occupied buildings of one to four units ("Single-Family Loans") and will be administered by Neighborhood Housing Services of Chicago, Inc. (NHS), an organization that seeks to improve the housing situation in Chicago. The City funds will be used in a revolving fund to be matched with \$1,000,000 in private bank loan money. The second loan fund, containing \$300,000, will be used for loans to owners of buildings of five or more units ("Multi-



Family Loans") through an interest-rate buydown program with Community Investment Corporation (CIC), a mortgage banking firm that provides financing for multi-family Housing in Chicago. The City funds will leverage \$3,000,000 in CIC loan funds by prepaying interest on individual loans to reduce the interest rate to approximately 8.5%. This rate is below market for rehab loans for apartment buildings. All of the City's funds will be used for interest write-downs.

NHS: According to literature provided by NHS outlining the "Boulevard Revolving Loan Fund" (BRLF), the City of Chicago will provide the capital that NHS will use as the initial resource for financing the rehabilitation of a property. Upon completion of the construction work, the loan will be sold to one of several local financial institutions which have agreed to participate in the program. The funds received from the sale will return to the program's capital fund. In cases where the borrower's situation necessitates a lower interest rate than the participating banks will allow, City money will be used for the entire loan or to make up the difference.

_____ stated that the individuals who would be receiving loans from the BRLF have a range of incomes. The rate of the loan depends upon the income of the borrower, ranging from 0%, for senior citizens and those on fixed incomes, to 8%. The amount of the loans will range from \$5,000 to \$25,000.

Whether the permanent loan is made with City money or from a financial institution, the loan agreement will be between NHS and the financial institution. The home owner pays NHS, which in turn pays the financial institution or the City's fund.

NHS packages, approves, and services the loan. All loan decisions are made by NHS through a local loan committee. The committee is comprised of two community representatives, two participating lenders, and one City representative from the DOH. Each committee member has one vote. You stated that the City employee will probably serve on the committee as part of his or her City duties and that the City wanted the employee on the committee for the sake of "checks and balances."

CIC: In the case of the Multi-Family Loans administered by CIC, the \$300,000 provided by the City will be used for interest write downs. According to _____ CIC, this means that the City funds are used to pay a lending institution up front to lower the interest rate of the loan. The amount paid to the lender is equal to the present value of the difference in

monthly payments. The amount of the write down is a subsidy; the borrower does not pay the City back. The interest rate write down ranges from 1/2% to 2% but is typically 1%. The typical loan amount for a rehab project under the Boulevard Program will be approximately \$400,000.

The loan decision is made by a loan committee comprised of representatives from the lending institutions. Their judgments are based on underwriting criteria. The amount of the write down is determined by CIC administrators also based on underwriting criteria. [REDACTED] CIC stated that this figure is very flexible. The City has no role in either the write down subsidy or the loan decision. CIC reports to the City about the loans made after the fact.

LAW: According to § 2-156-110 of the Governmental Ethics Ordinance:

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 the Ordinance 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; or (iii) any interest representing more than 10% of a corporation, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company, receivership, trust, or any legal entity organized for profit."

ANALYSIS: It is fairly clear that the Boulevard Program is work or business of the City. According to a press release from the Mayor's Office, this program is a joint effort between the City and the administrative institutions, NHS and CIC. The revitalization of the boulevards is an objective of the City, and the City is providing funding for the program.

The question is how we should view a Boulevard Program loan administered by NHS or CIC. In both cases there is no contract with the City but the two programs will be treated separately in this analysis since the circumstances are somewhat different.

NHS: In the case of the funds administered by NHS, the pre-rehabilitation loan agreement is between the borrower and NHS, and NHS does all the processing and decision making on the loans. However, the funds for these initial loans are provided by the City. In addition, a City employee will serve on NHS's loan committee that makes the decisions on who receives the loans. Ideally, the City loan will be purchased by a financial institution, but in some cases the loan will be held by the City for its duration. Regardless of the length of time, loans comprised entirely of City funds are awarded to participants in this program. Therefore, the Board considers the entire amount of the loan as City business. Since employees and officials are prohibited from having a financial interest in City business, they may not receive a loan of \$5,000 or more from the Boulevard Revolving Loan Fund.

CIC: Since City funds are used, the financial interest section of the Ordinance limits employee participation. The question is whether the entire loan is considered City business or just the amount of the write down. The City funds administered by CIC are used solely for interest rate write downs. While these write down subsidies make it possible for borrowers to receive loans at lower interest rates, the rehabilitation loans themselves are at no point funded by the City. In addition, the City has no representatives on any of the decision making committees at CIC. The Board has determined that only the amount of the write down subsidy should be considered City business, and employees are prohibited from having a write down subsidy of \$5,000 or more from the City funds administered by CIC.

CONCLUSION: In the case of the Boulevard Program administered by NHS, the amount of the entire loan is considered City business, whereas in the case of the program administered by CIC, only the amount of the City-funded subsidy is considered City business. In either case, employees and officials may not have a financial interest in City business.

RECONSIDERATION: This advisory opinion is based upon the facts which are outlined in this letter. If there are additional material facts or circumstances that were not available to the Board when it considered this case, you may request reconsideration of the opinion. A request for reconsideration must (1) be submitted in writing, (2) explain the material facts or circumstances which are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this letter.

Case No. 90076.A
December 20, 1990
Page 5

RELIANCE: This advisory opinion may be relied upon 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 which is indistinguishable in all its material aspects from the transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

cc:

[REDACTED]

t1:90076.M2