



*J. M. H.*

August 27, 1987

City of Chicago  
Harold Washington, Mayor

[REDACTED]

Case Number 87046.A

Board of Ethics  
Harriet McCullough  
Executive Director

**CONFIDENTIAL**

Robert C. Howard  
Chair  
Janet Malone Morrow  
Vice-Chair

Dear [REDACTED]

Sol Brandzel  
Rev. Harry Gibson  
Nola Hicks  
Vennie Lyons  
Beatrice Pizana  
Suite 1320  
205 West Randolph Street  
Chicago, Illinois 60606  
(312) 744-9660

It has come to the attention of the Board of Ethics that [REDACTED] of the firm [REDACTED] [REDACTED] has recently resigned his position as a member of the Mayor's Advisory Commission for Revising the Building Code. In a letter to [REDACTED] [REDACTED] dated [REDACTED] 1987, [REDACTED] gives the following reasons for his decision to resign:

The substance of the new ordinance [the Ethics Ordinance] makes it impossible for one to serve on a Commission and still function as a design professional in the City of Chicago. The conditions of the ordinance are such that any professional who represents the owner of a building in the submittal of drawings for code approval or who discusses an interpretation of the building code with a City administrative official is defined as a 'lobbyist' and is thus precluded from such work while serving on an Advisory Commission.

[REDACTED] statements concerning the Ordinance and its applications to appointed officials are misleading, and the Board of Ethics is therefore obligated to clarify the issues presented in this case.

First of all, [REDACTED] states that any professional who represents the owner of a building in the submittal of drawings for code approval or who discusses an interpretation of the Building code with a City administrative official will be classified as a "lobbyist" for purposes of the Governmental Ethics Ordinance. While it is certainly true that an individual who submits drawings for building code approval may be clas-



██████████  
August 27, 1987

sified as a "lobbyist", such a classification will not prevent ██████████ from serving as an appointed official on an Advisory Commission. The Ordinance merely requires "lobbyists" to file a Lobbyist Registration Form with the Board of Ethics on an annual basis; and to file a Lobbyist Disclosure Form twice a year. Please note however that an individual is not required to register as a lobbyist unless he earns \$5,000 in compensation or makes \$5,000 in expenditures for lobbying activities during the preceding or current calendar year.

Secondly, ██████████ statement that the Ordinance makes it impossible for a design professional to serve on a City board or commission is not entirely accurate. Admittedly, there are several restrictions which regulate the conduct of design professionals who serve as appointed officials on City boards and commissions however, these restrictions do NOT preclude design professionals from serving on Boards and commissions while engaging in private practice so long as they abide by the regulations discussed below.

#### DISCUSSION

Presuming, as ██████████ letter suggests that he is involved in submitting drawings to the City for building code approval and that he is simultaneously serving as a member of the Mayor's Advisory Commission for Revising the Building Code, there are three sections of the Ordinance which are relevant to his situation. The first is Section 26.2-5 which states the following:

No official or employee...shall solicit or accept any money or other thing of value...in return for advice or assistance on matters concerning the operation or business of the City; provided, however, that nothing in this section shall prevent an official or employee...from accepting compensation for services wholly unrelated to the official's or employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession.

This section explicitly states that the prohibition against accepting money in return for advice or assistance on matters concerning the business of the City was not intended to interfere with a City official's ability to receive compensation for rendering professional services so long as the professional services in question are wholly unrelated to the official's City duties and responsibilities.

██████████  
August 27, 1987

It is the understanding of the Board of Ethics that the duties of the appointed officials who serve on the Mayor's Advisory Commission for Revising the Building Code are to formulate and recommend to the Mayor appropriate revisions to the Chicago Building Code and to recommend reasonable rules and regulations governing the issuance of building permits and reasonable fees to be paid for the issuance of such permits and/or building inspections. (See Section 21-29 of Chapter 21 of the Municipal Code of Chicago). It is the opinion of the Board of Ethics that ██████████ is not prohibited from representing the owner of a building in the submittal of drawings for Building code approval, or from rendering advice to clients regarding an interpretation of the Building Code as it presently exists since such advice and assistance is wholly unrelated to ██████████ duty to make recommendations regarding revisions to the Building Code. In reaching this conclusion, the Board hereby holds that rendering assistance or interpreting a City Code as it exists in present form is an act which is wholly unrelated to making non-binding recommendations as to how a City Code should be revised.

The second provision of the Governmental Ethics Ordinance which is relevant in determining whether ██████████ can represent the owners of buildings in the submittal of drawings for Building Code approval while simultaneously serving as a member of the Mayor's Advisory Commission is Section 26.2-9. This Section states that no appointed official can represent any person other than the City, either in proceedings or transactions with City agencies or in judicial or quasi-judicial proceedings in which the City is an opposing party, unless the matter involved in such proceedings is wholly unrelated to that official's City duties.

Under this section, ██████████ would be prohibited from representing the owners of buildings in the submittal of drawings for code approval only if the drawings did not conform to Building Code requirements and during the proceeding or transaction in question, ██████████ attempted to advocate revisions of the Building Code on behalf of his client. Such an event would constitute a violation of Section 26.2-9 of the Ethics Ordinance since ██████████ would be representing a client in a matter that was not wholly unrelated to his official City duty of making recommendations to revise the Building Code.

However, it is the opinion of the Board that ██████████ representation of clients who submit drawings for Building Code approval will not violate Section 26.2-9 of the Ethics Ordinance so long as representation of his client does not include advocating revisions to the Building Code as it currently exists in published form with amendments.

Page Four  
[REDACTED]

August 27, 1987

Also worthy of comments in this case is Section 26.2-3 which states that:

No official or employee shall make, participate in making or in any way attempt to use his position to influence any City governmental decision or action in which he knows or has reason to know that he has any economic interest distinguishable from its effect on the public generally.

This section will prohibit [REDACTED] from making recommendations to revise the Building Code if his recommendations are made as a result of compensation received from another individual.

Having duly noted all of the restrictions pertinent to an official who serves on the Mayor's Advisory Commission for Revising the Building Code, the Board of Ethics hereby concludes that such an official is not automatically precluded from simultaneously serving on this Commission and rendering professional services in the private sector relative to the provisions of the Building Code as it exists in published form with amendments.

Should you have any questions regarding this matter, please do not hesitate to contact the Board of Ethics at 744-9660.

Sincerely,

*Sol Brandzel*

Sol Brandzel  
Chairman

[REDACTED]

disc- JS, [REDACTED]