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Advisory Opinion  
Case No. 92032.A, Post-employment  
[REDACTED]

*E 7/16/93*  
*Revised*  
*redaction*  
*6/3/93*  
*E.M.W.S.*

Date: [REDACTED]

On [REDACTED], you called the Board of Ethics office to ask a question about the post-employment provisions of the Governmental Ethics Ordinance and were sent copies of relevant advisory opinions with the confidential information deleted. After reviewing the opinions, you requested an advisory opinion on whether the Ethics Ordinance permits you to work on the Lake Shore Drive relocation project on behalf of your current employer. Having reviewed the facts presented, the Board determines that the post-employment provisions of the Ordinance do not prohibit you from participating in the Lake Shore Drive relocation project. The facts as presented to us and the Board's analysis are set forth below.

**FACTS:** You were an employee of the City for [REDACTED] years. You involuntarily left your position as [REDACTED] in the Department [REDACTED] in [REDACTED]. You had been in that position since [REDACTED]. Prior to [REDACTED], your title was [REDACTED] in the Department [REDACTED]. In those City positions you were responsible for designs for capital improvements for the City. You stated that this includes everything that is not maintenance, for example, airports, bridges, roads, and pumping stations. You did not do actual design work yourself; you supervised approximately [REDACTED].

You stated that, as an employee of the City, you had no involvement in the current Lake Shore Drive relocation project. This project, which will relocate the north-bound lanes of Lake Shore Drive in the area of Soldier Field and the Field Museum to the west side of these structures, was initiated as part of the McCormick Place expansion and is a joint effort of the Metropolitan Pier and Exposition Authority ("MPEA"), and the City and State governments. The Lake Shore Drive relocation was one of the projects included in the McCormick Place Expansion Traffic Summary Report, prepared by the Transportation Technical Subcommittee of the Burnham Park Task Force, an



organization created by the MPEA to consider issues relating to the McCormick Place expansion. While there were City representatives on that subcommittee, you did not serve on it. The primary work on the report, which was dated [REDACTED], was done by a private consultant. You said you may have seen plans for the relocation at some stage but you are not certain. You also stated that you did not gain any special knowledge of this particular project during your City employment that would give you or your employer any advantage over other contractors.

Approximately nine years ago you were involved in plans for relocating Lake Shore Drive in connection with the world's exposition, which Chicago sought to host. The plans for holding the exposition in Chicago were eventually terminated. That relocation project was only in the planning stages and Requests for Proposals were never issued. You stated that the proposed relocation plan was in the same area as the current plan but you do not recall how similar it was to the current plan. You stressed that these were totally different projects.

You are currently [REDACTED] for [REDACTED], a firm that is known for its work in environmental assessments. In your current position your primary responsibilities are reviewing plans and quality control. You also do some work in obtaining and developing new projects.

Recently, the City advertised for engineering consultants for the Lake Shore Drive relocation. If your company were awarded the contract and if you were allowed to work on it, your role would be to serve in a supervisory capacity, providing general advice on the whole project and working with various contacts, including City employees from your former department. You would like to know whether the Ethics Ordinance prohibits you from working on the Lake Shore Drive relocation for your current company.

You also asked whether, in general terms, the phrase "subject matter of the transaction" refers to the specific transaction or to the general area of the transaction. For example, you stated that as a City employee you worked on the Street A Bridge [REDACTED] project and obviously would not work on that specific project for your new company. However, you asked whether you could work on a completely new bridge project, for example, on the Street B Bridge [REDACTED].

**LAW:** The relevant provision of the Governmental Ethics Ordinance is subsection 2-156-100(b) of the section entitled "Post-Employment Restrictions." It states:

No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or 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.

Section 2-156-010(g) defines "contract management authority:"

"Contract management authority" means 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 or employee is subject to two restrictions on employment after leaving City service, a one-year prohibition and a permanent prohibition. A former City official or employee is prohibited, for one year after leaving City service, from assisting or representing any person in any business transaction involving the City if (1) the transaction involves a subject matter or area of City business in which the person participated as a City employee; and (2) the person's participation in this subject matter or area was personal and substantial. A former City official or employee is prohibited permanently from assisting or representing someone in a business transaction involving the City if (1) the transaction is a contract; and (2) the person exercised "contract management authority," as defined above, with respect to this particular contract while acting as a City official or employee.

According to the Board's interpretation, "assisting" and "representing" a person in business transactions involving the City encompasses helping a person to seek a contract as well as helping a person to perform a contract. (See Case No. 89119.A.)

An additional provision relevant to post-employment situations is section 2-156-070, "Use or Disclosure of Confidential Information," which states:

No current or former official or employee shall use or disclose other than in the performance of his official duties and responsibilities, or as may be required by law, confidential information gained in the course of or by reason of his position or employment.

Under this section, a former official or employee may not use or reveal confidential information acquired during the course of his or her City job.

**ANALYSIS:** Because you did not exercise contract management authority over the Lake Shore Drive relocation project, the permanent post-employment prohibition does not apply. As for the one year prohibition, because the City is letting the contract for the project, it is clearly a business transaction involving the City. It appears that as a City employee you were not personally and substantially involved in the subject matter of the Lake Shore Drive relocation that will take place as part of the McCormick Place expansion. The only consideration is your involvement in the Lake Shore Drive relocation project for the World's Exposition, which was terminated in the planning stages. However, because that project occurred approximately nine years ago and was a completely separate project, the Board does not believe your involvement in that project constitutes personal and substantial involvement in the subject matter of the current Lake Shore Drive relocation project.

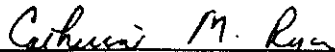
In response to your question about the meaning of the phrase "subject matter of the transaction," the specific example you presented about City bridge projects has been previously addressed in case no. 92022.A. In that case, the Board determined that a former City employee may work on future City street and bridge projects in general as long as the specific project in question is not one he worked on while employed by the City. In that particular situation, the Board held that the "subject matter of the transaction" refers only to the subject matter of the specific project and not to bridge or street projects in general. However, there are other situations in which the Board interprets "subject matter of the transaction" more broadly than the specific project. We advise you to contact the Board if questions should arise in connection with particular factual situations.

As for the provision concerning confidentiality, you stated that you did not gain any confidential information about the Lake Shore Drive relocation project during the course of your City employment. Therefore, this provision does not restrict your participation in that project.

**CONCLUSIONS:** Based on the facts presented, the Board determines that neither the permanent nor the one year post-employment prohibition applies to your proposed participation in the Lake Shore Drive relocation project.

While your proposed participation in the Lake Shore Drive relocation project does not involve your using or revealing any confidential information gained during the course of your City employment, we remind you that you are permanently prohibited from using or revealing such information.

**RELIANCE:** Other rules or laws may apply to this situation. Our decisions in this case are based on the application of the City's Governmental Ethics Ordinance to the facts stated in this advisory opinion. This 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 the specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

  
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Catherine M. Ryan  
Chair