

MEH



April 10, 1991

CONFIDENTIAL

[REDACTED]

RE: 91041.A - A.O.

Dear Mr. [REDACTED]:

The Board of Ethics is responding to you recent correspondence. We appreciate your bringing this matter to the Board's attention and your willingness to follow the ethical standards embodied in the Ordinance.

On [REDACTED], 1991, you telephoned this office with a question regarding the representation of a client before the [REDACTED] Commission. On [REDACTED], 1991, the Board received your letter explaining the situation.

You are currently a commissioner on the [REDACTED] Commission, for which you are not compensated. As a commissioner on the [REDACTED] Commission, you are an appointed official of the City.

You are also a partner at the law firm of [REDACTED], [REDACTED]. You stated that one of the law firm's long time clients, [REDACTED], now has a matter before the [REDACTED] Commission. You asked whether the firm could accept the case if (1) you do not provide any assistance to the client or to the attorneys working on the case, and (2) if you recuse yourself from the [REDACTED] Commission's proceedings and activities with regard to this client.

Based upon the facts you presented, the Board determines that, while your representation of or assistance to this client in this matter would violate the Governmental Ethics Ordinance, the firm's acceptance of this case, subject to certain restrictions set forth below, would not constitute of a violation of the Ordinance.¹

¹ This opinion is based upon the facts as stated in this letter. If these facts are incorrect or incomplete, please notify us immediately, as any change may alter our decision.



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The Board's determination in this case is based in part upon its previous opinion rendered in Case No. 89091.A, [REDACTED], and the representation section of the Governmental Ethics Ordinance. Subsection (c) of that section prohibits an appointed official from representing any person "in any formal or informal proceeding or transaction before any City agency in which the agency's action or non-action is of a non-ministerial nature" or "in any judicial or quasi-judicial proceeding before any administrative agency or court in which the City is a party and that person's interest is adverse to that of the City." § 2-156-090 (prior code § 26.2-9).

In Case No. 89091.A, the Board, applying the representation section of the Ordinance, determined in that case that your law firm could represent a client before the [REDACTED], which works with the [REDACTED] Commission, even though you yourself could not do so. The Board stated that section 2-156-090(c) "does not prohibit an appointed official from having an economic interest in representation via other members of his law firm, even if those representations are not wholly unrelated to his City duties and responsibilities."

In the present case, the Board looked to the opinion in Case No. 89091.A as well as the representation section of the Governmental Ethics Ordinance. It determines that you are prohibited by the Ordinance from representing [REDACTED] before the [REDACTED] Commission; however, under the Ordinance, another lawyer in your law firm is not prohibited from this representation by virtue of your membership on the [REDACTED] Commission. This determination is subject to the following restrictions:

First, under sections 2-156-030 and 2-156-080, you must refrain from participating in or influencing the decision of the [REDACTED] Commission or any other City entity with regard to this matter.

Second, under Section 2-156-050, you may not give advice or assistance to the client or to any attorneys in your firm regarding the operation or business of the City, particularly the operation or business of the [REDACTED] Commission.

Third, under Section 2-156-070, you may not disclose any confidential information gained from your position on the [REDACTED] Commission.

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The Board acknowledges that your letter to us, along with the letter to the Chairman of the █████ Commission, fulfills the disclosure requirements of this section 2-156-080(c), which requires disclose of matters in which you have a financial interest that are pending before a City agency.

We appreciate your effort to comply with the ethical standards imposed by the Governmental Ethics Ordinance. Enclosed is a procedural form, which we provide with all advisory opinions. If you have any further questions, please feel free to contact us.

Very truly yours,



Albert F. Hofeld
Chair

Enc.
cc: Kelly Welsh
Corporation Counsel

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