

**Advisory Opinion**  
**CASE NO. 04008.A**  
**Financial Disclosure**

**Date: May 19, 2004**

The Board of Ethics has considered Board staff's request of March 31, 2004 for an advisory opinion concerning the requirements of Article 2, §§ 2-156-150, et seq. (Financial Disclosure) of the Governmental Ethics Ordinance. The Board has determined that, if a transaction qualifies as a capital gain requiring disclosure under Article 2 of the Ethics Ordinance, the filer must provide sufficient information to identify the capital asset from which the capital gain was realized, including but not limited to the name of the company or mutual fund, the sale of whose stock or shares yielded the capital gain, in order to comply with the Ordinance's requirement that the identity of the capital asset be disclosed.

**RELEVANT LAW:** Under Section 2-156-150 of the Governmental Ethics Ordinance, certain persons, designated as "reporting individuals," are required annually to file Statements of Financial Interests with the Board of Ethics.

Section 2-156-160 of the Ordinance, entitled "Content of Statements," states, in relevant part:

*Statements of Financial Interests shall contain the following information: ...*

*(c) The **identity** of any capital asset, including the address or legal description of real estate, from which the reporting individual realized a capital gain of \$5,000.00 or more in the preceding calendar year other than the sale of the reporting individual's principal place of residence. (emphasis added)*

In the case of capital gains realized from real estate transactions, Section 2-156-160(c) explicitly requires that the filer provide the address or legal description of the real estate. However, in the case of capital gains realized from other types of transactions, including stock transactions<sup>1</sup> or mutual fund transactions, the Ordinance does not specify what information the filer must provide.

**ISSUE:** If a transaction qualifies as a capital gain requiring disclosure under Section 2-156-160(c), what information must the filer provide about the asset in order to comply with the Ordinance's requirement that the identity of the capital

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<sup>1</sup> Previously, in Case Nos. 88031.A and 88032.A, the Board determined that a capital gain of \$5,000 or more derived from the sale of shares in a single transaction of a publicly-owned corporation registered on a stock exchange pursuant to the Securities Exchange Act must be disclosed under Section 2-156-160(c) of the Ordinance.

asset be disclosed?

**ANALYSIS:** In addressing this issue, the Board has examined the language of Section 2-156-160(c). In the case of capital gains realized from real estate transaction, the Ordinance explicitly requires that the filer provide the address or legal description of the real estate. The Board has also examined the ordinary meaning of the word “identity,” as well as the purpose of the Ordinance provisions requiring the filing of financial disclosure statements by City officials and employees. The ordinary meaning of the word “identity” is “...*the distinguishing character or personality of an individual.*” Merriam-Webster's Collegiate Dictionary, 10th Edition, 1999. One major goal of the Ordinance’s public disclosure requirements is to promote public confidence in government by providing public access to certain information about the financial interests of City decision makers.

**DETERMINATION:** Following careful consideration of the foregoing factors, the Board determines that, if a transaction qualifies as a capital gain requiring disclosure under Article 2 of the Ethics Ordinance, the filer must provide sufficient information to identify the capital asset from which the capital gain was realized, including but not limited to the name of the company or mutual fund, the sale of whose stock or shares yielded the capital gain, in order to comply with the Ordinance’s requirement that the identity of the capital asset be disclosed.

Our determination is not necessarily dispositive of all issues relevant to this situation, but is based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion.

**RELIANCE:** 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 any specific transaction or activity indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

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Darryl L. DePriest  
Chair