

MEMORANDUM

To: The Honorable [John Doe], Alderman, 51st Ward

cc: [City Department Head (“DH”)]
The Honorable Rahm Emanuel, Mayor
The Honorable Lori Lightfoot, Mayor-Elect

From: _____
Steven I. Berlin, Executive Director

Re: **Case No. 19021.A, [City Department Head], Fiduciary Duty, Aspirational Code of Conduct**

Date: April 26, 2019

On April 16, I received a letter from you expressing

“serious concerns about several statements made by [DH] in a [media interview] published on [date], in which he acknowledged a personal friendship with incoming Mayor Lori Lightfoot and an interest in running for public office. These raise questions about [his] ability to conduct independent and impartial oversight of the new administration and to do so free of personal conflicts.” The [date] article was a summary of a 22-minute video interview [DH] had with [Media Reporter] on “The [Media Reporter] Show.”

The entire interview can be viewed here: [link]

You cc’ed our Chair William Conlon on your letter and asked that I share it with him. [He and I] discussed it at length, and, at our Board’s April 26 meeting, the Board members also discussed the matter at length. The Board directed me to send you a copy of the attached letter addressed to [DH], signed by Chairman Conlon and approved by all Board members present at the meeting. Together with this Memorandum, the letter constitutes our Board’s formal advisory opinion in this matter. Per Board Rule 3-7, a copy of this opinion is being sent to both you, as the person who requested it, and the opinion’s subject, [DH]. The Board also unanimously voted to send the opinion to Mayor Emanuel and Mayor-Elect Lightfoot for them to consider the Board’s recommendations, pursuant to Board Rule 3-7 and §2-156-400 of the Governmental Ethics Ordinance (the “Ordinance”), which provides that advisory opinions shall be confidential “except ... as necessary to carry out powers and duties of the board or to enable another person or agency to consider and act upon the notices and recommendations of the Board,” and §2-156-380(e) of the Ordinance, which authorizes the Board “to consult with City agencies, officials and employees on matters concerning ethical conduct.”

RECONSIDERATION. The Board’s advisory opinion is based on the facts set out in it. If there are additional material facts and circumstances that were not available to the Board when it considered this case, either you or [DH] may request reconsideration of this opinion. The Board can reconsider its opinion only if the request contains an explanation of material facts or circumstances that were not before the Board in its deliberations on the opinion. As provided by Board Rule 3-8, a request for reconsideration must: (i) be in writing; (ii) explain the material facts and circumstances that are the basis for the request; and (iii) be received by the Board within fourteen [business] days of the date of the signing of the opinion, that is, before the close of business on May 16, 2019.

On behalf of the Board, I thank you for your conscientiousness in bringing this matter to our attention.

Attachment: Letter to [DH]

CONFIDENTIAL

April 26, 2019

[DH]

Chicago, IL 606

Re: Case No. 19021.A, Fiduciary Duty; Aspirational Code of Conduct

Dear [DH] :

On April 16, our Executive Director received a letter from 51st Ward Alderman [John Doe] (on which I was cc'ed) stating, in part:

“serious concerns about several statements made by [you] in a [Media] interview published on [date] , in which [you] acknowledged a personal friendship with incoming Mayor Lori Lightfoot and an interest in running for public office. These raise questions about [your] ability to conduct independent and impartial oversight of the new administration and to do so free of personal conflicts.”

The article was a summary of a 22-minute video interview you had with [Reporter] on “The [Reporter] Show.” The entire interview can be viewed here: [link]

His concern is two-fold: (i) that your statements give the appearance that your and your office’s work would not be “free of even a hint of bias when deciding to commence new investigations and audits,” and “may present a potential conflict of interest”; and (ii) your statements about a potential run against Cook County State’s Attorney Kim Foxx (who will be up for re-election in 2020, less than two years from now) make it, in his words, “highly doubtful, at best, whether the person leading the office can be considered truly independent if he or she is campaigning or considering a run for an elected office.” Moreover, he writes, your statement appears to be contrary to the spirit, if not the letter, of §2- of the Municipal Code. As you know, that provision requires that the [your position] pledge in writing at the time of his appointment that, for two years after leaving his position, he “shall not become a candidate for or hold any elected public office which includes the City of Chicago in its geographic jurisdiction.”

Alderman [Doe] requested that the Board review and advise him on the issues presented by your recent statements, and, to the extent that the Board’s jurisdiction does not extend to these matters, provide our guidance as to the appropriate venue for airing these concerns. At our April 26 meeting, the Board members discussed the matter at length and determined that: (i) it does have jurisdiction over the issues raised by Alderman [Doe] ; and (ii) no violation has occurred.

Because of the importance of [your department] and the work you and your staff do, we want to share our thinking.

First, the Board commends your sensitivity to the issues that may arise because of your friendship with Mayor-Elect Lightfoot. Second, the Board also reminds you of two Ethics Ordinance provisions: (i) §2-156-020, which requires that all of us, as a City employees or officials, at all times in the performance of our public

duties owe a fiduciary duty to the City; and (ii) §§2-156-005 (a) (5), which is aspirational and requires all of us, as City employees or officials, to “act impartially in the performance of [our] duties, so that no private organization or individual is given preferential treatment.” Third, we ask that you remain mindful of your own enabling ordinance’s prohibition on running for office for two years after your position ends, and recommend that you consider answering future questions about your interest in holding elected office by referring to that provision.

Please do not hesitate to consult in confidence as appropriate with our staff, who are experts on the Ethics Ordinance and conflicts of interests and can serve you as neutral ethics advisers. We appreciate your attention to this matter, and wish you and your office continued success.

Respectfully,

William F. Conlon, Chair