



CITY OF CHICAGO

BOARD OF ETHICS

CONFIDENTIAL

August 10, 2021

cc:

Re: Case No. 21026.Q, IG# [redacted], City-owned Property, Gifts

Dear [redacted],

On August 5, 2021, the City’s Office of Inspector General [“OIG”] referred a citizen complaint to our office [OIG# [redacted]] for any action we deem appropriate. The complaint alleges improper use of the Official Seal of the City of Chicago [“Seal”] on a [decorative item] at [an event] [redacted] that took place on [redacted], at [redacted]. The notice advertising the [event], a photo of which was included in the complaint, shows that each of you were sponsors of this [event].

As explained in this letter, Board staff concludes that the Seal was not misused, and there was, thereby, no violation of the Governmental Ethics Ordinance [“the Ethics Ordinance”]. However, in reviewing this matter in its entirety, we have learned that some of the proceeds from this [event] may have benefitted [redacted], a private organization.¹ It is the opinion of Board staff, as explained, that any such donations to this private foundation are prohibited by the Ethics Ordinance, and that all proceeds from this [event], even those already transferred to the [private organization] must be turned back over to the [City Department] itself, and disclosed by [the City Department] as a “gift to the City.”

FACTS. The OIG referred the complaint to us on August 5, 2021. In that referral, we were provided with a screenshot of a photo posted [redacted], from a citizen’s [social media] account, showing the Seal on a [decorative item], [redacted] with the [social media] account holder questioning the use of the Seal at what appears to be this [event]. We were also provided a screenshot of a photo posted [redacted], from a different citizen’s [social media] account, showing a photo of [redacted] at what appears to be this [event]. And, we were also provided with a screenshot of a photo posted [redacted], from yet a third citizen’s [social media] account, with an announcement of the [event]. The [redacted], post showed a notice of the [event], a fundraising event to [redacted]

[redacted], with each of [redacted]

¹ See [redacted]

your names listed as sponsors. The notice announced that [redacted] would be sold, with proceeds benefitting [a private organization] and [a City Department].²

LAW AND ANALYSIS.

Seal of the City of Chicago. The Seal of the City of Chicago represents the authority of City government and conveys to persons who see it that they are seeing an official communication from the City. For this reason, the City Council passed an ordinance controlling the Seal’s use, which is set forth below, and the Board of Ethics has issued various advisory opinions explaining that certain uses of the Seal are prohibited. *See, e.g.*, Case Nos. 18036.A.1 and 21018.A.

The relevant law is §2-156-060 of the Ethics Ordinance, which states:

City-owned property. No official or employee shall engage in or permit the unauthorized use of any real or personal property owned or leased by the City for City business.

In Board Case No. 18036.A.1, the Board concluded that “[u]se of the seal by a City employee or official...to support a candidate for elected office would constitute a *prima facie* violation of the ‘City-owned property’ provision in the [Governmental Ethics] Ordinance [§2-156-060].” *Id.* 1. That opinion, in turn, adopts City law in §1-8-100 of the Municipal Code, which states:

Private use of seal unlawful. No person shall fraudulently forge, deface, corrupt, or counterfeit the seal of the city, nor shall any person, other than the duly authorized public official, make use of said seal...

It is our understanding that this [event] was organized by [redacted] you.

[redacted] Some of the proceeds were to benefit the [City Department] [redacted]. We thus conclude that this was a City event, hence the use of the Seal to announce the [event], and at the [event] itself, does not violate the Ethics Ordinance.

Proceeds Benefitting [Private Organization]. However, we now address how funds collected at the [event] appear to have been disbursed. §2-156-142 of the Ordinance states:

Offering, receiving and soliciting gifts or favors.

- (1) Except as otherwise provided in this chapter, no city official, candidate for city office, or employee, and, subject to subsection (h) no covered relative, shall...
 - (ii) accept any anonymous gift; or
 - (iii) accept any gift of cash, gift card or cash equivalent.
- (2) Except as otherwise provided in this chapter, no city official, candidate for city office, and, subject to subsection (h) no covered relative, shall knowingly accept any gift, unless the total value of all gifts given to the official, candidate for city office, employee or covered relative by a single source amounts to no more than \$50.00 in a calendar year...
 - (d) The restriction in subsection (a) shall not apply to the following:

(8) Any gift that is given to, or is accepted on behalf of the city, provided that any person receiving the gift on the city's behalf shall immediately report to the board and to the comptroller, who shall add such gift to an inventory of the city's property.

As the [event] was organized by you, and constitutes an official City event, the proceeds collected at the [event] effectively belong to the City itself. Hence, these proceeds may be used only for official City business purposes. To the extent that, as advertised, some of these proceeds went to benefit the [City Department], those funds must be disclosed by the [City Department] as a gift to the City. Hence, we advise you and [the City Department] that the names of individual donors, to the extent known, must be disclosed to [the City Department], along with the total amount of proceeds effectively gifted to [the City Department] for this purpose, and then [the City Department] must disclose these proceeds as a gift to the City, in writing, to our office and to the Comptroller's Office, per §2-156-142(d)(8), cited above. In contrast, however, no proceeds collected could be then donated or transferred to the [private organization], a private organization that . Because these proceeds effectively belong to the City, the Ordinance does not permit you , as the [event's] sponsors, to direct those proceeds to any person other than the City itself, such as the [private organization].³ Should [the City Department] itself wish to donate these proceeds to the [private organization] , or another private organization, it (and you) should consult with the City's Law Department to ensure such a donation is permissible. For these reasons, we advise you to contact the [private organization] and request that it reimburse the City for any proceeds that have been forwarded to it, so that these proceeds are in effect "re-patriated" to the [City Department].

We advise you to handle any similar future such [City Department events] you wish to sponsor in this same way.⁴

CONCLUSIONS. For the foregoing reasons, we conclude that the use of the City Seal on the [decorative item] at the [event] did not violate the Ethics Ordinance, as this [event] constituted a City event. Your donation of [event] proceeds to [the City Department] is permissible as it is a gift to the City and must be disclosed in writing by [the City Department] as such.⁵ However, we also conclude that, as to contributions made at the [event] that have been gifted to the [private organization], those funds, too, belong to the City. They must be recouped and given as a gift to the City [or another City department], from the individuals who donated, or, if that is not possible from you. If recoupment from the [private organization] is not feasible, we advise you to remit the amount back to the City from another permissible source, such as , or through donors you solicit [since soliciting for these funds would be a solicitation for a gift

³ We note here that §2-156-142(h) of the Ethics Ordinance actually prohibits you , and any other City officials or employees, from soliciting funds or donations on behalf of third parties, like the , from persons, such as , who you know have pending City matters that you can directly affect.

⁴ We note here that one of the citizen [social media] posters claimed that our agency had advised that proceeds from the could not be then donated to the local . We have no record of giving such advice; should confirm that are in effect arms of the , we see no issue under the Ethics Ordinance for future proceeds to be transferred directly to such offices, provided they are disclosed to our office and the Comptroller as gifts to the City from each contributor, as discussed above.

⁵ We recognize here that it now may not be feasible to identify each individual who contributed proceeds at the [event]. If that is the case, we advise you to send the [City Department] a letter, which you should cc to our office, indicating the amount of proceeds collected at the [event] and that you are turning these proceeds over to the [City Department] for use as it sees fit, and then that [City Department] disclose receipt of this gift from you and from those persons who contributed at the [event], even if those persons cannot be named individually.

August 10, 2021
Case. No. 21026.Q

to the City, you are not prohibited from soliciting funds for this purpose from persons who do have matters pending before the City that you are in a position to directly affect].

Finally, we advise you, on a “going-forward” basis, that all future events like this must be structured consistent with this letter.

Board staff is not now asking the Board to consider making a finding that there is probable cause to believe that the Ordinance was violated by the transfer of any proceeds to the [private organization]. However, as stated above, we advise you to recover any proceeds from the [event] that were given to the [private organization], or substitute those proceeds from another source, and gift those proceeds directly to the City in a reasonable and expeditious period of time. The Ordinance allows you to give these proceeds to [City Department]. Please notify us in writing when you have done so; the staff will then advise the Board that no other action is necessary.

RELIANCE. Our advice and conclusions are based solely on the application of the City’s Governmental Ethics Ordinance to the facts stated above. If the facts stated are incorrect or incomplete, please notify us immediately, as any change may alter our conclusions.

We appreciate your past conscientiousness in complying with the standards embodied in the Ethics Ordinance and appreciate in advance your compliance with the advice we have provided in this letter. If you have any questions about this or any other matter, please do not hesitate to contact us.

Sincerely,

Lauren Maniatis, Attorney

Approved:

Steven I. Berlin, Executive Director