

FICB  
Aldermen

**CONFIDENTIAL**

February 28, 2006

Alderman [John Doe]  
City Hall  
121 N. LaSalle St.  
Chicago, IL 60602

**Re: Case No. 06012.Q**

Dear Alderman [Doe],

You are Alderman of the xx Ward. [Y]ou asked our office whether the City's Governmental Ethics Ordinance prohibits or limits you from: 1) purchasing a home located in your ward at fair market value from a person or developer that may have requested your recommendation or approval for zoning variances or permits in the past (or may have zoning matters pending currently); or 2) pursuing building or zoning permits for your home should you purchase an existing property and desire to rehabilitate it. At this time, you explained, you have not identified any specific property, location or developer for your home, although you said the location would, of course, be in your ward. You also said that whatever and from whomever you purchase, the purchase would be a private party transaction: no City-owned land, property or financial assistance would be involved. Based on these statements, staff concludes that nothing in the Ordinance prohibits you from entering into a contract to purchase, develop or rehabilitate a home from a developer who may have current projects in your ward or for whose projects you have recommended or approved (or disapproved) zoning matters, or from pursuing building or zoning permits for your home. The Ordinance would, however, impose certain restrictions on your conduct as an alderman, and possibly require you to make certain disclosures to the Board of Ethics. This letter will explain these conclusions, restrictions and disclosures.

First, the Ordinance prohibits you, as an elected City official, from having a financial interest in any City work, contract or business. (See §2-156-110.) Provided that, as you indicated, you purchase a home or parcel for development from a private party, and no City-owned property or financial assistance is involved, and no ordinance would be required to be submitted to or approved by City Council approving the purchase or development, you would not have a prohibited financial interest in City business. Case Nos. 97008.Q; 02023.Q. If, however, you become interested in purchasing City-owned property, or purchase a home from a developer that has constructed the home with City financial assistance, or your purchase would require approval of City Council through an ordinance, we advise you to contact our office for further advice, as the transaction may involve a prohibited financial interest in City business. Moreover, the purchase could raise serious issues under state laws.

Second, the Ordinance prohibits you, as an elected City official, from accepting a gift of \$50 or more from any person with an economic interest in a specific City business or regulatory transaction if, as alderman, you can substantially affect the outcome of that transaction. (See §2-156-040(c).) Provided that, as you indicated, your purchase or development of the home is at fair market value, you would not be the recipient of a gift from your seller or developer. We caution you, however, that if you receive a discount on a home purchase or development that is greater than that offered to other persons in similar situations, and the seller or developer of the home does business in your ward or has zoning or other matters pending, the outcome of which

you could affect, then that discount, if equal to or more than \$50, would be a prohibited gift, in violation of

the Ordinance. See Case No. 88039.A.

Third, the Ordinance also prohibits you, as an elected City official, from making, participating in, or in any way attempting to use your City position to influence any City or governmental decision or matter in which you have an economic interest distinguishable from the that of the general public. See §§ 2-156-030(a); -080(a). When you enter into a contract to purchase, develop or rehabilitate a home, *you have an economic interest in the matter of the home sale, development or rehabilitation*. Thus, under these provisions, you are prohibited from participating in or using your position to influence the outcome of any City decisions or transactions with respect to either this home purchase or development (whether pending before City Council or any other City department), or applications for any required building or zoning permits or variances. You may submit your applications to the City for any required permits or variances in the same manner that any private citizen does, however, please keep in mind that: 1) you cannot use or attempt to use your City position to influence the actions or decision of any other City officials or employees with respect to those applications; and 2) if any such application comes before a City Council committee on which you sit, or before the full Council, you must notify the Board of Ethics in writing within 3 days of becoming aware of the matter's pendency, and then publicly disclose the nature and extent of your interest in the matter on the record of Council proceedings and abstain from voting on any such matter in accordance with §2-156-080(b)(1). See Case No. 98007.Q.

If the person with whom you contract to purchase, develop or rehabilitate your home has other matters pending before a City department or the Council or any of its committees, you are not required to recuse and disclose as discussed in 2) above. However, because the two of you would have an ongoing contractual relationship, to do otherwise would only detract from the integrity of your judgments, votes or actions.

Staff's conclusions are based solely on the application of the City's Governmental Ethics Ordinance to the facts summarized in this letter. If they are incorrect or incomplete, please notify us immediately, as any change may alter our conclusions. Please note that other laws, policies or rules may apply to this situation. We appreciate your bringing this matter to our attention and your concern to abide by the standards embodied in the Ordinance. If you have further questions about this or any other matter, please contact us.

Yours very truly,

Steven I. Berlin,  
Deputy Director

approved:

Dorothy J. Eng,  
Executive Director

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Staff notes, however, that *you would not have an economic interest in or business relationship with another*

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*person solely by entering into a contractual relationship with that person to purchase, develop or rehabilitate a home.* Thus, the additional requirements imposed (in §§ 2-156-030(b) and -080(b)) upon City Council members who have either an economic interest in any matter pending before, or a business relationship with any person with a matter pending before the Council or any of its committees would not apply

However, although the Ordinance would not require you to refrain from contacting other City employees or officials with respect to, or to recuse yourself from deliberating or voting on, such other matters, we advise you, in order to lessen any suggestion or appearance of impropriety, to consider refraining from contacting other City employees or officials regarding such matters and, where appropriate, publicly recusing yourself from deliberating or voting on them.