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Advisory Opinion
Case No. 93034.A, Interest in City Business

Date: October 20, 1993

On August 26, 1993, you requested an advisory opinion from the Board on whether the Governmental Ethics Ordinance prohibits City employees from purchasing City-owned property in areas designated for urban renewal. The provision of the Ordinance relevant to the facts in this case is Section 2-156-110, entitled "Interest in City Business," which prohibits City employees from purchasing City property unless it is sold "pursuant to a process of competitive bidding following public notice." It is the Board's determination that the process of the sale of City property described here constitutes a process of competitive bidding following public notice as required in the Ordinance and that, therefore, the Ordinance does not prohibit the purchase of City properties by the City employees in this case. The Board's analysis of the facts under the Ethics Ordinance is set forth below.

FACTS: This case involves the possible purchase of two City-owned properties by City employees, the sale of which is administered by the Department of _____ You are the

_____ in that department. You said you recently became aware that _____ who bid on one City-owned property, is an employee of the _____ and that a married couple, _____ who bid on another City property, also are City employees-- in the Department _____ and

You told us that the properties being sold are located within blighted areas designated for urban renewal, which means that their sale requires a procedure different from the sale of other City property. First, the sale is handled through your department rather than the Department of General Services. Second, those who submit bids to purchase land and/or buildings in these "conservation" areas must go through a proposal process to show they are qualified to redevelop the space properly.



In these particular instances, the City employees saw the abandoned properties, discovered that the City owned them, and approached the City about the possibility of buying them. You said that procedures for the disposition of this land allow for initiation of the sale either through the City's advertisement for proposals or through the City's acceptance of unsolicited proposals. You said it is not uncommon for interested buyers to contact the City first about abandoned property they want to buy, rather than the City first running a public notice.

----- said that department officials hold open meetings every month with the conservation council in each urban renewal area, and that the public finds out about properties available for sale and development at these meetings. He said the public also can find out about City ownership of these properties from City of Chicago signs that may be attached to the property sites, or by searching tax records on the properties.

The sale process for the two separate parties in this case followed the standard policies and procedures for the disposition of all urban renewal land, which were established by an ordinance passed by City Council in 1988 and adopted by the Community Development Commission ("CDC")¹ in 1992. Once the interested parties had inquired about the properties, the City--through the CDC--proceeded with these inquiries according to the Ordinance provisions. It had the properties appraised and advised the prospective buyers of the minimum fair market value of the land. The parties then submitted proposals and bids to buy the properties for the minimum fair market price. Their proposals, which were reviewed by the Department of ----- and the CDC, met all the requirements to qualify them as "developers" for the land in question. The following qualifications, which are set out in the City ordinance, were considered: (1) whether the proposals met the objectives and requirements of the City's redevelopment plan for the area; (2) how they benefit the public, including purchase price offered, tax generation, and job creation; (3) whether they will require additional public subsidies, such as tax abatements or low-interest loans; (4) the financial capabilities and previous development experience of the

¹ The CDC is a merger of the former Commercial District Development Commission and the Urban Renewal Board, whose members are appointed by the Mayor, and include the Commissioners of the Departments of Housing and of Planning and Development. Its responsibilities include recommending to City Council areas to be designated for urban renewal, and acquiring and disposing of land and buildings within those areas.

potential buyers; (5) the economic feasibility of the developments; and (6) the environmental aspects of the developments, such as landscaping, architecture, and site planning.

Once the CDC accepted the proposals submitted by these two parties, the Commission, as required by the City ordinance, declared its intention, at public meetings and by resolutions, to enter into negotiations with the specified developers. It then published these resolutions in the Sun-Times once a week for two consecutive weeks--on June 25, 1993 and July 9, 1993. Each notice expressly gave any other party interested in those properties 30 days to submit a proposal. The CDC also was required to mail copies of the resolutions to, and to invite proposals from, all parties who, within the past year, had advised the Commission or the Department in writing of their interest in any parcel in those redevelopment areas. These parties also were given 30 days to submit a proposal.

No other bidders responded to the public notice on either property. At the time you requested an advisory opinion, the CDC was ready to make its final recommendation about the sale of the properties to the Plan Commission, and to City Council, which makes the final sale decision.

You told us that no City funds or loan programs are involved in or connected to the sale of these properties.

LAW AND ANALYSIS: The provision of the Ordinance pertinent to this case is Section 2-156-110, entitled "Interest in City Business." It states in relevant part:

No elected official or employee shall have a financial interest in his own name or in the name of any other person in any contract, work or business of the City or in the sale of any article, whenever the expense, price or consideration of the contract, work, business or sale is paid with funds belonging to or administered by the City, or is authorized by ordinance. Compensation for property taken pursuant to the City's eminent domain power shall not constitute a financial interest within the meaning of this section. Unless sold pursuant to a process of competitive bidding following public notice, no elected official or employee shall have a financial interest in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City. . . .

Thus, a City employee is prohibited from having a "financial interest"² in the purchase of City property unless it is sold through "a process of competitive bidding following public notice."

Competitive bidding refers to a process in which all parties submitting bids are treated equally and are bidding on the same terms and conditions. The facts show that such a process was followed in this case. The City employees submitted bids and were evaluated according to the same terms and conditions as would have been applied to any other potential bidder in relation to these properties. You told us that the standard procedures established by City ordinance for the sale of land in areas designated for urban renewal were followed in this case. After the interested employees notified the City, the CDC obtained appraisals of the properties in question and advised the employees of those prices. The employees met all the qualifications applicable to any potential developer: their bids met the fair market price of the property, and their proposals were evaluated according to the criteria set out in the City ordinance (listed above).

The requirement for public notice under the Interest in City Business provision also was followed in this case. Once the CDC accepted the employees' proposals, it followed the standard procedure for public notice of these potential sales: (1) it declared its intention to enter into negotiations with the specified developers at public meetings; (2) it published each of these announcements in the Sun-Times once a week for two consecutive weeks, inviting any other interested parties to submit proposals on the properties in question within 30 days; and (3) it invited proposals, by mail, from all parties who, within the past year, had expressed interest to the Commission or the Department about any parcel in that redevelopment area, and gave them 30 days to respond.

CONCLUSION: It is the Board's determination that the process the CDC followed for the sale of the two City properties to City employees constitutes "a process of competitive bidding following public notice," as specified in the Interest in City Business provision of the Ethics Ordinance (§ 2-156-110). Therefore,

² The Ordinance defines "financial interest," in part, as (1) any interest as a result of which the owner currently receives or is entitled to receive in the future more than \$2,500 per year, or (2) any interest with a cost or present value of \$5,000 or more (§ 2-156-010(1)).

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these employees are not prohibited from purchasing the City properties on which they have submitted bids and proposals.

Our determination in this case is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other laws or rules also may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance.

RELIANCE: This opinion may be relied on 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 that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

Catherine M. Ryan

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Chair