



CITY OF CHICAGO



BOARD OF ETHICS

**CONFIDENTIAL**

August 26, 2024

Chicago IL 606\_\_

**Re: Case No. 24019.Q, Offering, receiving and soliciting gifts or favors; Reports of lobbying activities**

Dear [Lobbyist],

**FACTS.** You are a partner in law firm [LF]. On August 8, 2024, you and your law partner [LP] spoke with Board legal staff about a boat tour a client of your firm intends to host, in order to view and discuss a potential development site along the Chicago River that, you said, “we are very familiar with.” But you did not wish to reveal your client’s identity.<sup>1</sup> You explained that the tour would occur in mid-September, and that your client wishes to invite the Mayor and other City officials, as well as State and County officials, and that, in your and your client’s view, a boat tour of the site is essential for governmental officials to understand the site.

You have requested an advisory opinion addressing whether, under the City’s Governmental Ethics Ordinance (the “Ordinance”) the invited City officials could accept this tour. You also stated that your client, which owns the site, and the anchor tenant of the proposed development, each wish to offer tour participants token gifts (you referred to them as “tchotchkes”). You also asked whether, if the tour does occur, and these gifts are distributed, there would be reporting requirements to the Board. Board staff advised you then that, assuming the event otherwise meets the conditions set forth in the Ordinance, all City officials and employees attending would be required to report their attendance in writing to the Board within 10 days of the tour, pursuant to §2-156-142(d) of the Ordinance, but that your client would not *per se* be required to report the tour, though individuals who lobby during the boat tour will need to report to the Board as described below. We note that both you and your law partner are registered lobbyists with the Board, and you indicated that your client and the anchor tenant of the proposed redevelopment each have their own lobbyists, and that lobbying will occur on the tour. Thus, the tour’s costs will need to be reported by each individual who lobbies, on their 3<sup>rd</sup> Quarter lobbying activity reports (due October 20) as lobbying expenditures, and the token gifts, not to exceed \$50 in value to any single recipient in a calendar year, will

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<sup>1</sup> Per §2-156-380(l) of the Municipal Code, the Board has the authority to render advisory opinions based upon a “real or hypothetical set of circumstances, when requested in writing by an official or employee, or by a person who is personally and directly involved.”

need to be reported as gifts from lobbyists, itemized by cost, recipient, and client,<sup>2</sup> per §2-156-250(b), (c), and (d) of the Ordinance.

Also, during that conversation, Board legal staff advised you that it could not itself render an opinion, but that such an opinion would need to come from the full Board. However, staff also advised you, the Board is not scheduled to meet until September 30. You then said you would request a formal opinion and hoped that the Board could nonetheless provide reliable advice to you and your client in advance of the tour.

Then, on August 22, our office received your formal written request for an advisory opinion, sent on behalf of your client. This request is attached. In your request, you state that “the site visit will be conducted via a chartered boat, which will enable attendees to consider the development proposal in the context of the [site’s] proximity and access to the Chicago River, including how the development could improve the quality of the Chicago River and enhance the public’s use and enjoyment of the Chicago River.” You also state that your client “plans to seek State and City approvals (including new legislation) related to land use and development financing for the proposed development ... the purpose of the site visit is to provide information about the proposed development and its relationship to the Chicago River to help inform State and City officials and employees who may decide, or advise decision-makers, with respect to such approvals. Feedback received from attendees may also help inform [your client’s] design ... [Your client] plans to provide food and beverage refreshments during the boat tour and may hand out trinkets to commemorate the visit. The board tour will not be open to the public.” And, you wrote, attendees would include executives and employees of your client, and owners, executives, and employees of the third-party business that would be the primary user of the development, which you refer to as the “Anchor Tenant,” as well as consultants working on behalf of your client and the Anchor Tenant, and “representatives of business and economic development organizations.”

As explained below, it is the staff’s opinion that both the proposed boat tour and distribution of token gifts to attending City officials and employees are permissible under the Ordinance, subject to the conditions and requirements set forth in this opinion.

**RELEVANT LAW.** There are two Ordinance provisions relevant to your request. First, §2-156-142(d) (and -142(a)(2), to which it refers), provides, in relevant part:

**2-156-142. Offering, receiving and soliciting of gifts or favors.**

(a) (2) Except as otherwise provided in this chapter, no city official ... or employee ... shall knowingly accept any gift, unless the total value of all gifts given to the official ... employee ... 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 ...

(12) Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with meetings, appearances or public events or ceremonies related to official city business, if furnished by the sponsor of such meeting or public event or ceremony, and further provided that such travel and expenses, entertainment, meals or refreshments have been approved in advance by the board and are reported to the board within 10 days of acceptance thereof.

Second, §2-156-250 provides, in relevant part:

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<sup>2</sup> See Case No. 97037.A: [https://www.chicago.gov/dam/city/depts/ethics/general/AO\\_Lobby/97037.A.pdf](https://www.chicago.gov/dam/city/depts/ethics/general/AO_Lobby/97037.A.pdf)

**2-156-250. Reports of lobbying activities.**

No later than January 20th, April 20th, July 20th and October 20th of each year, each registrant shall file with the Board a written report of lobbying activities during the previous three calendar months. The report shall be on a form prescribed by the board, which may include electronic submission, and shall contain ...

(b) With respect to each client:

(i) The name, business address, and nature of business of the client and of any other business entities on whose behalf lobbying was performed;

(ii) A statement of the amount of compensation received from each client;

(iii) The name of each agency before which the registrant lobbied and a brief description of the administrative action or legislative action that the registrant sought to influence, including: (A): (A) identifying information, if applicable, such as title, file number, or document number; and (B) the outcome sought by the client;

(c) The total amount of expenditures, outside the registrant's own business entity, for lobbying in each of the following categories ...

(ii) Advertising and publications ...

(v) other expenses; provided, however, that each expenditure of \$250.00 or more shall also be itemized by the date of the expenditure, the amount, purpose and beneficiary of the expenditure, the name, address and nature of business of the recipient, and the legislative or administrative action or legislative action, if any, in connection with which said expenditure was made;

(d) An itemized list of every gift given to any official or employee of the city ...

**ANALYSIS.** We first address whether the Ordinance permits your client to invite City officials and employees to this boat tour, and whether these City invitees may accept the invitation. The Ordinance states that an invitation to a meeting or appearance such as this, which includes a chartered boat tour and food and refreshments, can be accepted by City personnel, provided: (i) it is "related to official City business"; (ii) furnished by the event's sponsor; and (iii) is approved by the Board in advance and reported to the Board by those City personnel who attend within 10 days of their acceptance. Given that the proposed site is on the shore of the Chicago River, and that one of the tour's purposes is to familiarize the invited City officials with the site and one of the development's purposes is, as you state, to "improve the public's access to and enjoyment of the River," it is our conclusion that the tour is related to official City business—with the caveat that *only* those City personnel who would be involved in the decisions as to whether to grant permits, negotiate associated redevelopment agreements, or approve any required City legislation receive invitations. That is, your client may extend the invitation *only* to those City personnel who are integral to the City's decision-making process: one or two senior personnel from the management of the Department of Planning & Development who would work on the project, the Alderperson of the ward where the site is located, the Chair and/or Vice-Chair of the City's Council's Zoning, Landmark and Building Standards Committee, the Corporation Counsel and/or her designee, and the Mayor and/or the key commercial development Deputy Mayor and/or their designee.

Our conclusion is consistent with prior Board opinions. See, e.g. Cases 87019.A; 87049; 87120; 88104.A; 88134.A; 89111.A; 89112.A; 90089.A; 91064.A; 94045.Q; 01002.Q; 01007.Q; and 01023.Q.<sup>3</sup> The gist and

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<sup>3</sup> [https://www.chicago.gov/dam/city/depts/ethics/general/AO\\_GiftsTravel/87019.A.pdf](https://www.chicago.gov/dam/city/depts/ethics/general/AO_GiftsTravel/87019.A.pdf);  
<https://www.chicago.gov/content/dam/city/depts/ethics/general/Deck%20Chairs/4-15-12/87049.Q.pdf>;

reasoning of these many Board opinions is that, if a tour like the one you describe serves a legitimate business purpose for the limited City personnel attending, and is not offered in exchange for their decisions or judgments as to official City business matters, and is offered by the event’s sponsor, then the Ordinance allows these City personnel to accept the invitation – provided that, as also required by the Ordinance, the City attendees duly report their attendance. In our opinion, this boat tour meets these conditions.

We also conclude that your request for this opinion, and this opinion itself, satisfy the requirement that the event be approved in advance by the Board; again we remind you that all City attendees must report their acceptance of the tour within 10 days of the tour,<sup>4</sup> and, as we have advised hosts of such events, we advise you to ensure that your client includes language in the invitations your client sends out that reminds City attendees of their reporting requirement.<sup>5</sup> Further, as we explained, the Board makes all such disclosures public on our website promptly upon receipt.

Second, we conclude, the “tchotchkes,” “trinkets,” or “commemorative items” both your client and the Anchor Tenant intend to provide may be offered and accepted, provided that they are worth no more than \$50 to each City recipient from each of these two donors, and that, when aggregated with any other gifts offered by your client or the Anchor Tenant to these recipients, all gifts for 2024 do not exceed \$50 in value per recipient. You have asked whether your client, the proposed developer of the site, and the “Anchor Tenant,” which is a different entity, are separate and distinct “single sources,” and can *each* offer up to \$50 worth of such items to each City attendee. We are troubled, however, by this request, as you describe the boat tour “as essential for governmental officials to understand the site.” Multiple trinkets hardly seem necessary to accomplish that goal. Nonetheless, the language of §2-156-142(a)(2) of the Ordinance allows that. As legal staff advised you on August 8, though, the value of any items offered at this tour must be added to the value of *any* items offered by your client or the Anchor Tenant to these City recipients *previously* in 2024, and together cannot total in excess of \$50 to any single recipient from either source in a single calendar year.

Third, as you recognize in your August 22 letter, and as we discussed on August 8, since lobbying will occur at the event, the costs your client incurs to host it, such as the boat charter fee and food and drink, must be reported as lobbying expenditures in the 3<sup>rd</sup> Quarter activity reports filed by all who lobby on behalf of your client or the Anchor Tenant. Those who lobby on behalf of the Anchor Tenant must report their expenditures, but those expenditures may differ if the Anchor Tenant is not helping to defray the costs of the event. However, contrary to what you write in your request, the “tchotchkes,” “trinkets,” or

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[https://www.chicago.gov/dam/city/depts/ethics/general/AO\\_GiftsTravel/87120.A.pdf](https://www.chicago.gov/dam/city/depts/ethics/general/AO_GiftsTravel/87120.A.pdf);  
<https://www.chicago.gov/content/dam/city/depts/ethics/general/Deck%20Chairs/4-15-12/88104.Q.pdf>;  
[https://www.chicago.gov/dam/city/depts/ethics/general/AO\\_GiftsTravel/88134.A.pdf](https://www.chicago.gov/dam/city/depts/ethics/general/AO_GiftsTravel/88134.A.pdf);  
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[https://www.chicago.gov/content/dam/city/depts/ethics/general/AO\\_GiftsTravel/01002.Q.pdf](https://www.chicago.gov/content/dam/city/depts/ethics/general/AO_GiftsTravel/01002.Q.pdf);  
[https://www.chicago.gov/content/dam/city/depts/ethics/general/AO\\_GiftsTravel/01007.Q.pdf](https://www.chicago.gov/content/dam/city/depts/ethics/general/AO_GiftsTravel/01007.Q.pdf);  
[https://www.chicago.gov/content/dam/city/depts/ethics/general/AO\\_GiftsTravel/01023.Q.pdf](https://www.chicago.gov/content/dam/city/depts/ethics/general/AO_GiftsTravel/01023.Q.pdf) .

<sup>4</sup> Their disclosures must name the event’s sponsor (that is, your client), the date and purpose of the event, and state that they attended and accepted reasonable hosting expenses in their official City capacity.

<sup>5</sup> By long-standing arrangement between the Board and Mayor’s Office dating back to Mayor Eugene Sawyer’s administration, Mayoral acceptance is reported in the log kept by the Mayor’s Office in the Mayoral Suite of offices in City Hall. The Board makes all such disclosures we receive immediately available on our website, for public inspection.

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“commemorative items” do *not* constitute lobbying expenditures, but are *gifts*. Thus, they must be separately reported and itemized as gifts in the relevant lobbyists’ 3<sup>rd</sup> Quarter activity reports, by client, recipient, recipient’s title or position, and approximate market value, per Case 97037.A, cited above in fn.2. Should any lobbyists need assistance in completing their activity reports or calculating their expenditures, they can contact us.

To enable the Board to carry out its duties, we request that you provide the Board with the names and titles of all City governmental personnel in attendance during all aspects of the boat tour.

**CONCLUSIONS.** For the reasons stated above, Board legal staff concludes that both the proposed boat tour and distribution of token gifts to attending City officials and employees are permissible under the Ordinance, subject to the conditions and requirements set forth in this opinion. Further, the expenditures for the boat tour and the token gifts worth less than \$50 (when aggregated with any other gifts from your client and the Anchor Tenant, respectively, in 2024) must be reported by lobbyists as described above, and all City attendees must report their attendance to the Board, as described above.

**RELIANCE AND RECONSIDERATION.** Our conclusions and advice are based solely on the application of the City’s Governmental Ethics Ordinance to the facts summarized in this letter. If these facts are incorrect or incomplete, please notify our office immediately, as any change may alter our conclusions or advice. This opinion may be relied upon by any person involved in the specific transaction or activity with respect to which this opinion is rendered. If there are additional material facts and circumstances that were not available when we considered your questions, you may request reconsideration of the opinion. As provided in Section 3-8 of the Board’s Rules and Regulations, a request for reconsideration must: 1) be in writing; 2) explain the material facts and circumstances that are the basis for the request; and 3) be received by the Board within fourteen (14) City business days of the date of this letter.

Finally, as we explained to you on August 8, we will present this matter to the full Board in Executive Session at its September 30 meeting, and the Board will vote whether to accept, amend, or reject our advice at that meeting. We thus advise you that the final advice the Board may wish to provide could differ in certain respects from our legal staff’s conclusions.

We appreciate your conscientiousness.

Yours very truly,

Steve Berlin, Executive Director