



BOARD OF ETHICS
CITY OF CHICAGO

**FINAL DETERMINATION OF LOBBYING VIOLATION
CASE NO. 17011.06.LOB**

This matter involves further action following the Board's determination, made at its meeting of February 24, 2017, that there is probable cause for the Board to conclude that: (i) an individual violated §2-156-245 of the Governmental Ethics Ordinance (the "Ordinance") by engaging in lobbying (as defined in §2-156-010(p) of the Ordinance) on December 4, 2014, but failed to register as a lobbyist. The subject was notified of that determination. On March 13, and then May 1, 2017, the Board received written responses from the subject. The Board afforded the subject the opportunity to meet to present any supplemental information or arguments, and that meeting was held on June 26, 2017.

At its meeting of July 19, 2017, the Board, having fully considered all of the information presented by the subject, VOTED 6-0 (Nancy C. Andrade, absent) to determine that the subject violated §2-156-245 of the Ordinance by failing to register as a lobbyist within five (5) days of engaging in lobbying activity, and to impose a fine of \$2,500, pursuant to §2-156-465(b)(3). Further, pursuant to §2-156-465(b)(3), the Board hereby names the lobbyist as Anthony Davis.

The Board recites the following:

1. The evidence before the Board is that Mr. Davis emailed the Mayor and Deputy Mayor on December 4, 2014, as follows:

"Rahm and Steve, I have a request re [a business] ... getting moved by the city due to project at Fullerton and Damen. It needs a zoning change to move to a new location nearby. Rahm - this is the place at which ... Timing is of the essence given their eminent domain eviction. I have reached out to the Alderman's office. How can we get this moved along as quickly as possible? New address is 2525 N Elston Ave. Alderman is Scott Waguespack."

2. The Board has considered the arguments put forth by the subject, specifically that: (i) he was not acting or "retained" or "employed" by another person to engage in this activity; (ii) merely asking for a meeting does not constitute lobbying; (iii) that the Board is able in this case to impose a maximum fine of \$1,000; and (iv) that the sole method for a person found to have engaged in unregistered lobbying is found in Board Rule 8, under which the Executive Director, not the Board, must impose the fine, and cannot impose the fine until seven days after notifying the subject of the apparent failure to register, and that this is a paper-based determination.

3. The Board rejects all of these arguments, for the following reasons:

(i) as the Ordinance defines the term “lobbyist” in §2-156-010(p), it means “any person who, on behalf of any person other than himself, *or* as any part of his duties as an employee of another, undertakes to influence any legislative or administrative action ...” [emphasis added]. The subject here was emailing the Mayor and Deputy Mayor on behalf of another person, a business, of which he was a patron, and with whose owner he was on friendly terms – he was not emailing them on his own behalf, as it was not he who was inquiring about zoning regulations or who needed the zoning change in short order;

(ii) while the Board recognizes that the subject did not attempt to put forth any arguments as to why a need for a zoning change by the person on whose behalf he was emailing was justified, the verbiage used clearly conveys a position and an “ask,” and thus constitutes an attempt to influence “administrative action” as that term is defined in §2-156-010(a) of the Ordinance;

(iii), (iv) the subject’s arguments are misplaced – Board Rule 8, and the fines it addresses, cover already-registered lobbyists who are late in re-registering or in filing quarterly reports, not with persons who engage in lobbying but then fail to register as required within five (5) business days. In contrast, in this and other similar cases, the Board looked at records that have been made publicly available, examined them to determine whether they indicated lobbying, on their face, and then compared them with its database of registered lobbyist to ascertain whether the individual appearing to have engaged in lobbying was registered as a lobbyist within the time period specified in the Ordinance, and then, where the person was not, to afford the person ample opportunity to explain why he or she was not engaged in lobbying or was covered by an exception to the definition of lobbying. That is the procedure the Board followed in each of these regulatory actions.

4. The Board makes clear that its determination is not intended to question the subject’s integrity, character or motivations. It represents, rather, the Board’s careful examination of all the facts and arguments presented to it, and the Board’s conclusion that those facts show that the subject engaged in “lobbying” as defined in the Ordinance, but did not register as a lobbyist as required by the Ordinance.


William F. Conlon, Chair

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