

## Executive Director's Report January 13, 2025

### **Board Members**

We have heard nothing further from the Mayor's Office regarding potential re-appointments of members David Daskal and The Honorable Barbara McDonald (Ret.), whose terms expired on July 31, 2024. That said, the law is clear that they "hold office until [their] successor [if someone other than themselves] has been appointed and has qualified," per §2-156-310(b).

I again urge the Mayor to re-appoint both David and Barbara, who are dedicated and conscientious Board members.

### **Statements of Financial Interests**

All but one (1) individual required to file filed. We assessed \$15,350 in fines, and made public the names of all 72 City officials and officials found to have violated the law for late filing.

We will send out lists of last year's filers to all departments and City Council offices in several weeks to compile the list of 2025 filers. Then, on or around March 1, we will notify all 2025 filers of their filing requirement.

All forms filed in 2017 and after are posted and viewable here, where they stay for seven (7) years after they are filed: <https://webapps1.chicago.gov/efis/search>

### **Sister Agencies**

We will meet next with our ethics counterparts from the Cook County Board of Ethics, CTA, CHA, CPS, City Colleges, Park District, Metropolitan Pier & Exposition Authority, and RTA, in March 2025.

### **Education**

#### **Mandatory Online Training**

All but 205 employees and officials completed their 2024 online mandatory ethics training before the January 1, 2025 deadline. We have sent out probable cause letters. Those found in violation will be subject to daily \$250 fines until they complete their training, and all names, violations, and fines will be made public, as per the Governmental Ethics Ordinance.

In February we will release all-new trainings for City officials, employees, and lobbyists—three (3) in total.

#### **Mandatory In-person Classes and other presentations**

In-person classes began again in May 2024 for those City officials and employees required to attend them once every four years (about 3,000). To date, approximately 2,290 City employees and employees have attended.

We will restart these in-person classes again in March 2025 for the remaining ~700 individuals required to complete that.

#### **Advisory Opinions**

Since the Board's December 16 meeting, we have issued 182 informal advisory opinions. The leading categories for informal opinions were, in descending order: Gifts; Travel; Lobbying; Outside employment; Statements of Financial Interests; City property; Conflicts of Interests; Post-employment; and Campaign Financing.

The leading City departments from which requesters came in this period were, in descending order: City Council; Chicago Police Department/Civilian Office of Police Accountability (COPA)/Community Commission for Public Safety and Accountability (CCPSA); Mayor's Office; Department of Public Health; Office of Inspector General; Department of Finance; Department of Cultural Affairs and Special Events; and Department of Planning and Development.

75% of all inquiries came from City employees or elected officials; the remainder came from attorneys, vendors, lobbyists or potential lobbyists.

Please note also that we continue to receive large numbers of complaints from members of the public: since the last Board meeting, we have received eight (8).

Informal opinions are confidential and not made public, but are logged, kept, and used for training and future advisory purposes. This same practice occurs with our colleagues at the New York City Conflicts of Interest Board, who issue roughly the same number of informal opinions. They form the basis for much of our annual and periodic educational programs. Formal opinions are made public, in full text, with names and other identifying information redacted out. In the past five (5) years, the Board has issued 70 formal opinions.

### **Summary Index of Formal Advisory Opinions/Text of all Formal Advisory Opinions**

The full text of every formal Board opinion issued since 1986 is posted on the Board's website (more than 925), redacted in accordance with the Ordinance's confidentiality provisions, here:

[https://www.chicago.gov/city/en/depts/ethics/auto\\_generated/reg\\_archives.html](https://www.chicago.gov/city/en/depts/ethics/auto_generated/reg_archives.html).

Redacted formal opinions are posted once issued or approved by the Board. Summaries and keywords for each of these opinions—and a link to each opinion's text, which we added since the August Board meeting—are available on the Board's searchable index of opinions, here:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/AOindex.docx>.

A few other ethics agencies have comparable research tools. We are unaware of jurisdictions that make their *informal* opinions public — though, like us, others issue them confidentially and enable requesters to rely on them in the event of an investigation or enforcement.

### **Lobbyists Filings**

As of the end of 2024, there were 862 individuals registered as lobbyists, and we collected \$401,875 in 2024 registration fees.

All 2024 lobbyists must either re-register for 2025 or terminate, and file Q4 activity reports on or before Monday, January 20, 2025. As of this writing, ~125 have re-registered, and we have collected ~ \$42,000 in registration fees.

We posted a current list of registered lobbyists and their clients here:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/LobbyistStuff/LISTS/lobbyistlist.xls>

Lobbyists' filings dating back to 2014 can be examined here: [https://webapps1.chicago.gov/elf/public\\_search.html](https://webapps1.chicago.gov/elf/public_search.html).

### **Waivers**

Since July 1, 2013, the Board has had authority to grant waivers from certain provisions in the Ethics Ordinance. The Board has granted ten (10) and denied three (3) waiver requests. In accordance with the law, all granted waivers are posted here: [https://www.chicago.gov/city/en/depts/ethics/supp\\_info/Waivers.html](https://www.chicago.gov/city/en/depts/ethics/supp_info/Waivers.html) . There is one (1) request for a waiver on today's agenda, from the Ordinance's post-employment/revolving door restrictions.

### **Summary Index of Board-Initiated Regulatory Actions/Adjudications/pre-2013 Investigations**

We post a summary index of all investigations, enforcement and regulatory actions undertaken by the Board since its inception in 1986 (other than those for violations of filing or training requirements or campaign financing matters). It includes an ongoing summary of all regulatory actions the Board undertook without an IG investigation, based on probable cause findings the Board makes as a result of its review of publicly available information, where no factual investigation by the IG is necessary. *See*

<https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/Invest-Index.pdf>

There are no such matters currently pending.

The Board makes public the names of all violators and penalties it assesses when authorized by law to do so. But only in those that occurred after July 1, 2013, can the Board release the names of those found to have violated the Ordinance. Since July 1, 2013, there have been nearly 90 such matters.

### **Summary Index of Ongoing/Past IG/LIG Investigations/Adjudications**

There are currently ten (10) completed IG ethics investigations in various stages of the adjudicative process. More

information on these cases is posted here:

<https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/ongoing-summary-of-enforcement-matters.html>.

In the first, 23045.IG, is a confidential administrative hearing pursuant to §2-156-392 is underway. The City is represented by the law firm Hinshaw & Culbertson, and the matter is being heard before ALJ Frank Lombardo. The Board is pursuing a \$20,000 fine.

In the second and third, 23054.IG and 23055.IG, the Board found probable cause at its November 2023 meeting. The Board met in February with the subject's attorney. After that meeting, the Board requested further clarification from the IG, received that clarification, and presented it to the subject's counsel. The Board found 12 violations in 23054.IG and voted to pursue a \$60,000 fine (at its April 2024 meeting). In 23055.IG, at its May 2024 meeting the Board found two (2) violations, and voted to pursue the maximum penalty of \$5,000 per violation. The subject made offers to settle both matters, which the Board rejected. At its June meeting, the Board voted to proceed with a confidential administrative hearing on both matters. The City is represented by Anthony Masciopinto, from the firm of Kulwin, Masciopinto and Kulwin. ALJ Frank Lombardo has been assigned to both matters.

In the fourth, 23067.IG.1, .2,.3, and .4, the IG delivered its completed investigation to the Board on December 30, 2023. The matter involves four (4) employees from the same City department (one of whom is now retired). The IG concluded that one of them had a prohibited financial interest in City contracts, and that two of the others knew of this violation but failed to report it to the IG as required by §2-156-018(a). At its January 2024 meeting, the Board voted to refer the matter back to the IG, because the evidence adduced in the IG's investigation appears to show that the *fourth* employee from the same department also violated §2-156-018(a) by failing to report the violation to the IG. The Board requested that the IG review its investigation, and if appropriate, petition the Board for a probable cause finding with respect to that fourth employee. The IG reviewed the matter and then petitioned the Board for a probable cause finding with respect to all four (4) employees; the Board found probable cause as to each subject. One (1) met with the Board in June, another in July; and a third in September. At the Board's October 21 meeting, it found all four (4) individuals in violation of the Ordinance and assessed a total of \$28,500 in fines. The matter is on today's agenda. Two (2) have indicated that they will pay their fines (in case .01 and .03); the other two have indicated that they wish to pursue a confidential administrative hearing.

In the fifth, 24003.IG, the IG delivered its completed investigation to the Board on February 2, 2024. The matter involves an investigation into the deletion of comments from an elected official's official social media account. The Board requested and received clarification from the IG on certain factual issues; at its May 2024 meeting the Board voted to seek further clarification from the IG based on the factors set out by the U.S. Supreme Court in *Lindke v. Freed*: [https://www.supremecourt.gov/opinions/23pdf/22-611\\_ap6c.pdf](https://www.supremecourt.gov/opinions/23pdf/22-611_ap6c.pdf). The IG responded, and the matter has been continued, pending guidance from the federal courts regarding the interpretation of *Lindke*.

In the sixth, 24004.IG, the IG delivered its completed investigation to the Board on February 27, 2024. It involves attempted bribery of a City building inspector. The Board found probable cause at its April 2024 meeting. At its May meeting, the Board voted to pursue the maximum fine of \$5,000. The subject indicated, through counsel, that he now wishes now to pay the fine with a payment plan, and the matter is on today's agenda. The Board previously voted to send the matter to the Law Department for a confidential hearing.

In the seventh, Case No. 24018.IG, a completed investigation was delivered to the Board on August 8, 2024. The IG concluded that an elected official from a non-City jurisdiction lobbied the City, in violation of the "cross-lobbying" ban, §2-156-309 of the Ordinance. At its September meeting, the Board voted to refer the matter back to the IG for further investigation, and the IG responded in November. The matter is on today's agenda for a potential finding of probable cause.

In the eighth, Case 24020.IG, a completed investigation was delivered to the Board on August 27, 2024. The IG concluded that a former City employee failed to disclose, on Statements of Financial Interests filed for years 2019-2021, that they had a financial interest in real estate located in the City in four (4) instances. The subject never responded to the Board's repeated notices, first of its probable cause finding; then of its finding that the subject violated the Ordinance and is subject to \$12,000 in fines—the maximum fines for these years. The Board voted to refer this matter to the Law Department for a confidential hearing to enforce its determination.

In the ninth, Case No. 24025.IG, a completed investigation was delivered to the Board on December 2. The IG concluded that a City official misused their title and City authority in a dispute with a private business. The Board voted to refer the matter back to the IG for further investigation.

In the tenth, Case No. 24027.IG, the IG delivered a completed investigation to the Board on December 23, 2024, with a request that the Board find probable cause. It involves an employee who owns a company that was a listed subcontract on a City contract, in apparent violation of the Ordinance's prohibition on having a financial interest in a City contract, work or business, and the subject's failure to disclose ownership of that company on their filed Statements of Financial Interests. The matter will be presented to the Board in February to consider a probable cause finding.

More complete summaries of these cases are available on our website, subject to the Ordinance's confidentiality requirements. We post on our website and continually update an ongoing investigative record showing the status of every completed investigation brought to the Board by both the IG since July 1, 2013, and the former Office of the Legislative Inspector General ("LIG"), since January 1, 2012, and the status of all 50 petitions to commence investigations presented to the Board by the LIG. We update this record as appropriate, consistent with the Ordinance's confidentiality provisions. See <https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/ongoing-summary-of-enforcement-matters.html> and <https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/PublicScorecard.pdf>

Whenever the IG presents the Board with a completed ethics investigation in which the IG believes there have been violations of the Governmental Ethics Ordinance, the procedure that follows is governed by §2-156-385 of the Ordinance: the Board reviews the IG's report, recommendations, and the entirety of the evidence submitted in its completed investigation, including a review to ensure that the IG conformed with the requirement that it complete ethics investigations within two (2) years of commencing them (unless there is evidence that the subject took affirmative action to conceal evidence or delay the investigation), and that the ethics investigation was commenced within five (5) years of the last alleged act of misconduct.

If the Board finds that the evidence presented warrants a finding of probable cause to believe the subject violated the Ordinance, it notifies the subject of the allegations and affords the subject the opportunity to present written submissions and meet with the Board, together with an attorney or other representative present. The Ordinance provides that this meeting is *ex parte* – no one from the City's Law Department or IG is present. Note that the Board may also request clarification from the IG as to any evidence found in its investigation before making a probable cause finding, or refer the matter back to the IG for further investigation (and has done so). The Board cannot administer oaths at this meeting but can and does assess the subject's credibility and the validity and weight of any evidence the subject provides.

If the subject does not rebut the Board's probable cause finding, the Board may enter into a public settlement agreement – or may find there was a violation and proceed to a hearing on the merits that is not open to the public. That hearing is held before an administrative law judge (ALJ) appointed by the Department of Administrative Hearings. The City would be represented by the Law Department (or a specially hired Assistant Corporation Counsel for that purpose), and the subject by their attorney. At the conclusion of that hearing, the ALJ submits findings of fact and law to the Board, which can accept or reject them, based solely on the written record of the hearing. The Board will then publicly issue an opinion in which it may find violations of the Ethics Ordinance and impose appropriate fines, or find no violation and dismiss the matter.

These processes are based on specific recommendations of then-Mayor Emanuel's Ethics Reform Task Force in Part II of its 2012 Report—the primary purposes being to: (i) guarantee due process for all those investigated by the IG; (ii) ensure that only the Board of Ethics could make determinations as to whether a person investigated by the IG violated the Ordinance, given the Board's extensive jurisprudence and unique expertise in ethics matters; and (iii) balance due process for those investigated by the IG with an accurate adjudication by the Board and the public's right to know of ethics violations.

On our website, we have a publication describing this process in detail:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/EnforceProcedures.pdf>

Note: fines range from \$500-\$2,000 per violation for non-lobbying or non-campaign financing violations that occurred before September 29, 2019, and \$1,000-\$5,000 per violation for such violations occurring between September 29, 2019,

and September 30, 2022. For violations occurring on or after October 1, 2022, the fine range is between \$500 and \$20,000 per violation, and the Board may also assess a fine equal to any ill-gotten financial gains as a result of any Ordinance violation. Fines for unregistered lobbying violations remain at \$1,000 per day beginning on the fifth day after the individual first engaged in lobbying and continuing until the individual registers as a lobbyist.

Please note, finally, that, in all matters adjudicated or settled on or after July 1, 2013, the Board makes public the names of all violators and penalties assessed, or a complete copy of the settlement agreement. All settlement agreements are posted here: <https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/SettlementAgreements.html>

### **Disclosures of Past Violations**

July 2013 amendments to the Ordinance provide that, when a person seeks advice from the Board about past conduct and discloses to the Board facts leading it to conclude that they committed a past violation of the Ordinance, the Board must determine whether that violation was minor or non-minor. If it is minor, the Board, by law, sends the person a confidential letter of admonition. If it was non-minor, then, under current law, the person is advised that they may self-report to the IG or, if he or she fails to do so within two (2) weeks, the Board must make that report. In 12 matters, the Board has determined that minor violations occurred, and the Board sent confidential letters of admonition, as required by the Ordinance. These letters are posted on the Board's website, with confidential information redacted.

### **Litigation**

It has been widely reported that the lawsuit in *Czosnyka et al. v. Gardiner et al.*, docket number 21-cv-3240, was settled in December 2024. The Board and the City of Chicago were previously dismissed out of this case. The Board was not involved in settlement negotiations. In light of the Supreme Court's decisions in *O'Connor-Ratcliff v. Garnier* (docket # 22-324) and *Lindke v. Freed*, when we are now asked about when, if ever, City elected officials may block people from their official and/or their personal or political sites, we refer them to the City's Law Department, which can advise them per the Supreme Court's analysis. These are no longer Governmental Ethics Ordinance questions. Note that any and all advice the Board has given in this area has been based on a careful analysis of the facts as presented under prevailing law, including the Board's opinion in this case: <https://www.chicago.gov/content/dam/city/depts/ethics/general/AO-City%20Owned%20Property/18038.A.1.pdf>.

### **Open Meetings Act/FOIA Challenges**

The Board is currently involved in six (5) challenges filed with the Illinois Attorney General by the same person. These challenges request:

- (1) a review of the propriety of adjourning into executive session during the Board's September 11, 2023 meeting under the Open Meetings Act ("OMA");
- (2) A review of the propriety of adjourning into executive session during the Board's August 14 and September 11, 2023 meetings under OMA;
- (3) A review of the propriety of adjourning into executive session during the Board's July 18, 2022 meeting under OMA;
- (4) A review of the Board not producing certain records pursuant to FOIA;
- (5) A review of the propriety of the Board's method of taking final action at its April 15, 2024 and May 13, 2024 meetings.
- (6) A review of the Board's proceedings in both Open and Executive Session as to Case No. 24019.Q, at its September 30, 2024 meeting.

The Board has worked with the Law Department and responded to each.

In addition, on March 8, a seventh challenge was filed with the Illinois Attorney General's PAC by a citizen, alleging that the Board violated the FOIA because it had no responsive document of instructions to persons assessed a fine by the Board as to how they should pay that fine. That challenge was dismissed by the PAC.

## **Freedom of Information Act**

Since the last Board meeting, the Board has received seven (7) requests.

The first was for any “memoranda” concerning “ethics questions” “pertaining” to a former City employee and a current City official. The Board responded that any documents it would have are exempt under the deliberative process exemption in the FOIA statute.

The second was for emails between two (2) Board staff members and three (3) [cityofchicago.org](http://cityofchicago.org) email addresses associated with a particular Ward office, from January 1, 2020 to January 1, 2023. The Board produced responsive documents, and withheld others under the deliberative process exemption in the FOIA statute.

The third was part of a City-wide request, for all departments’ final departmental budget request to the Office of Budget and Management. The Board consulted with the Law Department and responded that we withheld the responsive record in compliance with FOIA. Section 7(1)(f) exempts from disclosure, “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.”

The fourth was for any written opinions from the City’s “ethics advisor” or the Board of Ethics about leaves of absence from a sister agency by a current City official and a former City employee, and City personnel generally. The Board responded that it had no responsive written documents and has not given oral advice on these matters.

The fifth was for any advisory opinions the Board has issued addressing leaves of absence from a sister agency by a City official. The Board responded that it has no responsive documents.

The sixth was for certain documents; the Board responded that it is the wrong department.

The seventh was for emails in 2019 between a staff member and email addresses within the U.S. Department of Justice. The Board responded that it has no responsive documents.