

City of Detroit Board of Ethics

Kristin Lusn, Esq., Chairperson
Freda G. Sampson, Vice Chairperson
Rev. Dr. Charles C. Adams
David W. Jones, Esq.
Robert Watt

Advisory Opinion 2019-01
Issued: May 21, 2019

Advisory Opinion 2019-01: The Board of Ethics determined in accordance with Sec. 2-106.5 of the Ethics Ordinance, the Public Servant shall not lobby or appear before the City Council or any City department, agency, board, commission or body or receive compensation for any services in connection with any matter in which he or she was directly concerned, personally participated, actively considered or acquired knowledge while working for the City, or for a period of one (1) year after employment with the City, the Public Servant shall not accept employment with any person or company that did business with the City during the former public servant's tenure if that public servant was in any way involved in the award or management of that contract or the employment would require the sharing of confidential information.

I. Procedural Background

Requestor filed this Request for Advisory Opinion 2019-01 (the “Request”) on January 4, 2019. Requestor falls under the definition of public servant as defined Section 2-6-3 of the Detroit Ethics Ordinance (the “Ordinance”) and in accordance with Sec. 2-6-101, her inquiry is about her conduct. The Requestor waived confidentiality with respect to identity.

At its meeting on February 20, 2019, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-6-101 of the Ordinance. At this meeting, the Board reviewed a Privileged and Confidential Preliminary Analysis of the Request. The Board voted for a 91-day extension of time on April 16, 2019. On May 21, 2019, after consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant Section 2-6-104(b)(4) of the Ethics Ordinance.

II. Facts Alleged In the Request

In the Request, Diana Solomon states as follows:

I am writing to gain an understanding about my consulting on projects with the City of Detroit via my own firm (LLC) after my resignation from my position as Chief of staff (xyz). May I work as an independent consultant or lobby the City Councilmembers or appointees for payment? Please note that I have owned my own consulting firm for 10 years (Rose Trinity Consulting)

By this request, Ms. Solomon seeks an advisory opinion as to the applicability of the 2012 Detroit City Charter.

III. Applicable Charter Sections

The 2012 Detroit City Charter provides at Section 2-106.1 that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect their personal or financial interests. This Request involves Section 2-106.4 of the 2012 Detroit City Charter codified at Section 2-6-71 of the Ethics Ordinance. It states as follows:

Sec. 2-106.5. One Year Post-Employment Prohibition.

- (a) Subject to state law and except for personal services contracts as defined in Section 2-105, for one (1) year after employment with the City, a public servant shall not lobby or appear before the City Council or any City department, agency, board, commission or body or receive compensation for any services in connection with any matter in which he or she was directly concerned, personally participated, actively considered or acquired knowledge while working for the City.
 - (b) Subject to state law, for a period of one (1) year after employment with the City, a public servant shall not accept employment with any person or company that did business with the City during the former public servant's tenure if that public servant was in any way involved in the award or management of that contract or the employment would require the sharing of confidential information.
- (Amended, election of 11-6-12)

In short, the first paragraph of Sec. 2-106.5 addresses lobbying /advocacy or the receipt of compensation by a public servant for a matter in which they would have control over or obtained knowledge of as part of their official duties for the City. The second paragraph prohibits public servants from accepting employment with an outside entity where they had influence over the awarding or management of a contract to that entity or if such employment would require sharing of confidential City information. This prohibition applies to public

servants within one -year of leaving the employ of the City. The one-year prohibition on outside employment expires after a one-year period has ended.

All public servants are subject to the one-year post employment prohibition except those who come back under a personal services contract. Personal service contracts are the exception in the first paragraph (lobbying) and not mentioned in the second paragraph (outside employment).

IV. Application of the Charter to the Facts Presented

Because Ms. Solomon fails to fit into the exception, she must adhere to the one-year post employment prohibition. She did not have a personal service contract or any other type of contract with the City.

She must wait one (1) year after employment with the city to *lobby or appear* before the city council or any city department, agency, board, commission or body, *or receive compensation for any services in connection with any matter in which she was directly concerned, personally participated, actively considered or acquired knowledge* while working for the city.

This means she cannot lobby City Council or any city department, agency, board, commission, or body. She also cannot receive compensation, even through her firm, for any *services in connection with any matter in which she was directly concerned, personally participated, actively considered or acquired knowledge* while working for the city.

Additionally, for one (1) year after employment with the city she cannot accept employment with any person who, or entity which, did business with the city during her tenure *where she was in any way involved in the award or management of the contract, or the employment would require the sharing of confidential information.*

As such, for one year she cannot accept employment, even through her firm, with any person who, or entity which, did business with the city during her tenure *where she was in any way involved in the award or management of the contract, or the employment would require the sharing of confidential information.*

Ms. Solomon's firm performs political/campaign type activities. She may participate in those activities as long as she performs them outside of city business. Campaign activities are not city business. They are activities performed by individuals who are running for office. She may solicit individuals for campaign activities but she may not solicit city officials for city business.

V. Conclusion

The Board of Ethics concludes the Request for Advisory Opinion 2019-01 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request. The Requestor must wait one (1) year after employment with the city to *lobby or appear* before the city council or any city department, agency, board, commission or body, *or receive compensation for any services in connection with any matter in which she was directly*

concerned, personally participated, actively considered or acquired knowledge while working for the city.

Additionally, for one (1) year after employment with the city she cannot accept employment with any person who, or entity which, did business with the city during her tenure *where she was in any way involved in the award or management of the contract, or the employment would require the sharing of confidential information.* This applies even if she seeks it through her LLC.

Example: Requestor cannot lobby City Council for City business for one year after leaving city employment.

However, Requestor can lobby an individual to perform work that is not city business.

Requestor may lobby individuals for business that is not City business. An example of this type work would be to perform campaign activities. Campaigns are not City business but the business of an individual seeking office. Requestor may lobby and seek employment for City activities where she *was in **no** way involved in the award or management of the contract, or the employment would require the sharing of confidential information*

Detroit Board of Ethics
7737 Kercheval, Suite 213
Detroit, MI 48214
(313) 224-9521
Ethics@detroitethics.org

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