

City of Detroit Board of Ethics

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Advisory Opinion 2018-17
Issued: February 19, 2019

Advisory Opinion 2018-17: The Board of Ethics concludes the Request for Advisory Opinion 2018-17 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request. The Requestor may participate in volunteer board duties as Secretary without violating the Ethics Ordinance. There is no overlap of duties with the nonprofit; Requestor receives no financial gain from serving as a volunteer; Requestor recuses herself from any discussions that include funding sought from the City of Detroit; and Requestor is not representing the outside agency (Southwest Housing Solutions) before any City agency.

I. Procedural Background

Requestor filed this Request for Advisory Opinion 2018-17 (the “Request”) on November 26, 2018. 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, his inquiry is about his conduct. The Requestor waived confidentiality with respect to identity.

At its meeting on February 19, 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 and, 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

The Requestor wrote:

I am a Board Member of Southwest Housing Solutions (SWHS). I have been on the Board since 2007 and I now have been elected as Secretary. This position gives me the signatory obligations for seeking funding. SWHS is applying for City funding for housing grants in the coming months. I will not appear before City Council in requesting funds; my role with SWHS includes voting, applying for funds, and signing resolutions on behalf of the Board when applying for the funds. Currently, I have abstained from voting matters in seeking such funds from the City of Detroit. Should I file a disclosure as to my relationship on the SWHS Board of Directors? To not hold [sic] this signing authority I will be stepping down as Board Secretary. Should I step down as the Board Secretary and remain a Board Member while awaiting this decision or stay in the position and wait for this final opinion?

By this request, Requestor seeks an advisory opinion as to the applicability of the 2012 Detroit City Charter. The Requester queried whether, as Ethics Coordinator for the Board of Ethics, she may volunteer with Southwest Solutions' without violating the 2012 Detroit City Charter or 1984 Detroit City Code.

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 Sections 2-6-62, Section 2-6-67, and Section 2-6-68 of the Ethics Ordinance, which state as follows:

Sec. 2-6-31. - Disclosure of interests by public servants.*

(a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority over a pending matter shall disclose:

- (1) Any financial interest, direct or indirect, that he or she or an immediate family member has in any contract or matter pending before city council;
- (2) Any financial interest, direct or indirect, that he or she or an immediate family member has in any contract or matter pending before or within any office, department or agency of the city; and
- (3) Any interest that he or she, or an immediate family member has in real or personal property that is subject to a decision by the city regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement or a development agreement.

(b) All disclosures that are required under subsection (a) of this section shall be made, in writing, on a form that is created by the law department and sworn to in the presence of a

notary public. After completion, the form shall be filed with the Board of Ethics, which shall forward a complete copy of the form to the applicable department director or agency head.

(Ord. No. 18-12, § 1, 7-31-12)

Sec. 2-6-62. - Improper use or disclosure of confidential information prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly use or disclose to third parties confidential information, which is gained by reason of his or her official duties, concerns the property, government or affairs of the city or any office, department or agency thereof, and is not available to members of the public.

(Ord. No. 22-00, § 1, 8-2-00; Ord. No. 18-12, § 1, 7-31-12)

Sec. 2-6-67. Self-interested regulation prohibited.

Except as otherwise provided for by applicable law, a public servant shall not knowingly vote, or knowingly participate in the negotiation or making of any City contract, or any other type of transaction with any business entity in which he or she or an immediate family member has a financial interest.

Sec. 2-6-68. - Improper use of official position prohibited.*

Except as otherwise provided for by applicable law, a public servant shall not knowingly use his or her official position in violation of applicable law, to improperly influence a decision of the mayor, of the city council, of the city clerk, or of a member of a city authority, board, commission, committee, council or group, or other city agency.

(Ord. No. 22-00, § 1, 8-2-00; Ord. No. 18-12, § 1, 7-31-12)

IV. Application of the Charter to the Facts Presented

Requestor's participation in the aforementioned entity, Southwest Housing Solutions, does not violate any of the listed sections of the Ordinance. As a standard practice, Requestor recuses herself from all discussion about funding from the City of Detroit. More specifically, there is no correlation between her City responsibilities and her board member responsibilities or prospective responsibilities serving as board Secretary. The Board of Ethics' confidential and proprietary City information does not overlap with or influence grant-funding activities by the City. The Requestor performs no work for the Board of Ethics that overlaps or is similar to the volunteer duties that she performs for the SWHS.

Further, Requestor is not representing the outside agency (Southwest Housing Solutions) before any City agency, nor does she hold any financial interest or self-dealing that would benefit from her involvement in Southwest Housing Solutions. Lastly, Southwest Solutions seeks grant funds from private foundations and other sources; the City of Detroit is not its sole source of income.

V. Conclusion

The Board of Ethics concludes the Request for Advisory Opinion 2018-17 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request. The Requestor may participate in volunteer board duties as Secretary without violating the Ethics Ordinance. There is no overlap of duties with the nonprofit; Requestor receives no financial gain from serving as a volunteer; Requestor recuses herself from any discussion that include funding sought from the City of Detroit; and Requestor is not representing the outside agency (Southwest Housing Solutions) before any City agency. Requestor should exercise caution that her judgment and actions on behalf of the City remain independent and that her outside activities are not performed during City business hours or utilizing City resources.

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Dated: June 17, 2019