

*City of Detroit Board of Ethics*

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**Advisory Opinion 2019-06**  
**Issued: May 21, 2019**

**Advisory Opinion 2019-06:** The Board of Ethics concludes the Request for Advisory Opinion 2019-06 in accordance with Sec. 2-6-104(b)(4). Requestor has made no violation of the Ethics Ordinance by making application to become a third party rental inspector while he is an employee.

**I. Procedural Background**

Requestor filed this Request for Advisory Opinion 2019-06 (the “Request”) on February 21, 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, his inquiry is about his conduct. The Requestor has not waived confidentiality with respect to identity.

At its meeting on April 16, 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 to open an investigation for this matter and allowed a 91-day extension. The extension provides a due date of August 21, 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, Requestor states as follows:

Per sec 2-6-65, I wish to disclose my application via [REDACTED] for providing 3<sup>rd</sup> party rental inspections. I applied to provide 3<sup>rd</sup> party inspections primarily because although I am a building inspector I am not allowed to perform building inspections and it is work I trained for and enjoy. It is my intent to leave my position within moments of approval of the contract.

By this request, the public servant seeks an advisory opinion as to the applicability of the 2012 Detroit City Charter and the Ethics Ordinance.

### **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. 2-6-65. - Incompatible employment or rendering services prohibited.**

Except as otherwise provided for by applicable law, a public servant shall not knowingly engage in or accept employment, or knowingly render services, for a private or public interest where such employment or service is in conflict or incompatible with the proper discharge of the public servant's official duties for the city, or where such employment or service is reasonably expected to impair the public servant's independence of judgment or action in the performance of his or her official duties for the city.

(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.

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

#### **Sec. 2-6-72. - One year post-employment prohibition.**

(a) Subject to state law, and except for personal service contracts, 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 one (1) year after employment with the city a public servant shall not accept employment with any person who, or entity which, did business with the city during the former public servant's tenure where the public servant was in any way involved in the award or management of the contract, or the employment would require the sharing of confidential information.

(Ord. No. 18-12, § 1, 7-31-12)

In short, the first paragraph of Sec. 2-6-72 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 the one-year period right after a public servant leaves City employment. The one-year prohibition on outside employment expires after the one-year period has ended.

All public servants are subject to the one-year post employment prohibition except those who return to the City 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**

Requestor submitted the Request as the disclosure of his bid for a third party rental inspection. He has properly disclosed his potential financial interest while a City employee. As such, Requestor has not violated any of the disclosure requirements.

Section 2-6-72, the one-year post employment prohibition does not apply to these facts. Requestor is working for himself and he was in no way involved in the award or management of the third party rental inspections while employed by the City and this new venture would not require him to divulge confidential City information. He did not work in that department.

Additionally, Requestor, as a third party rental inspector, will be contracting directly with property owners, tenants, and property managers, not the City of Detroit or City of Detroit contractors.

If Requestor is qualified and his application approved, he receives clearance to participate as a third party rental inspector. He would have no influence over anyone seeking these services. To clarify, BSEED would add the Requestor's name to the list of available and vetted Third Party Residential Property Inspectors. The property owner would be responsible to select a third party rental inspector to perform services. Requestor would receive no advantage having been a COD employee.

#### **V. Conclusion**

The Board of Ethics concludes the Request for Advisory Opinion 2019-06 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request. Requestor has made no violation by making application to become a third party rental inspector.

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