

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 2018-18
Issued: February 19, 2019

Advisory Opinion 2018-18: The Board of Ethics concludes the Request for Advisory Opinion 2018-18 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 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.

I. Procedural Background

Requestor filed this Request for Advisory Opinion 2018-18 (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:

On 12/6/18, I anticipate being nominated to the Board of Southwest Detroit Environmental Vision Project or SDEV. SDEV is an environmental non-profit that addresses issues in five zip codes in southwest Detroit. In the past, they have obtained grants through the City of Detroit but mainly obtain funding through federal, state and foundation sources. Further, the City of Detroit is currently a recipient of one of their Clean Diesel EPA grants. As a board member, I will be asked to sit on committees and participate in decisions that affect SDEV. All meetings are after work hours and any additional work done by me will be done on my own time. As a City of Detroit employee and according to the Ethics ordinance, I will abstain from matters that directly involve the City. Besides grant applications, do I need to be aware of any other limitations? After receiving direction, I will complete the required disclosure forms to my department head but are there any other disclosure concerns I need to consider due to the City of Detroit being a grant recipient at this time?

By this request, Requestor seeks an advisory opinion as to the applicability of the 2012 Detroit City Charter. The Requester queried whether, as Ethics Investigator for the Board of Ethics, she may volunteer with Southwest Detroit Environmental Vision Project 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 SDEV does not violate any of the listed sections of the Ordinance. More specifically, there is no correlation between her City responsibilities and her prospective responsibilities as a board member. Her work with the City of Detroit does not involve the evaluation or award of grant funds. Her work with the Board of Ethics does not overlap with or influence grant-funding activities performed by the City. Requestor shares no confidential or proprietary City information while performing the duties as a board member. In addition, her volunteer duties with SDEV are not related to or compatible with Requestor's investigative duties on behalf of the City's Board of Ethics.

Further, Requestor should not represent the non-profit (SDEV) before the Board of Ethics, and if she acquires any financial interest in SDEV's work with the City, she must disclose it through the relevant financial disclosures pursuant to the City Code. Lastly, the grant funds supporting the work of SDEV are from private and other public sources, not solely sought from the City of Detroit.

V. Conclusion

The Board of Ethics concludes the Request for Advisory Opinion 2018-18 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 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.

Detroit Board of Ethics
7737 Kercheval, Suite 213
Detroit, MI 48214
(313) 224-952
Ethics@detroitethics.org

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