

City of Detroit Board of Ethics

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**Advisory Opinion #2018-02
Issued: May 15, 2018**

Advisory Opinion #2018-02: The Ethics Ordinance does not require the Requestor to make a disclosure requirement until there is a matter pending before Council or within any office, department, or agency, or real or personal property subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement or a development agreement.

I. Procedural Background

Request for Advisory Opinion 2018-02 (the “Request”) is dated January 25, 2018, and was sent electronically to the Board of Ethics (the “Board”). The Request was submitted by a current public servant as defined by Section 2-6-3 of the Detroit Ethics Ordinance (the “Ordinance”) who did not waive confidentiality with respect to identity.

At its meeting on February 20, 2018, 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 that meeting the Board reviewed a Preliminary Analysis of the Request. On May 15, 2018, after consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant to Section 2-6-104(b)(4) of the Ordinance.

II. Facts Alleged In the Request

In the Request, the Requestor states:

Per our conversation, I am sending this communication via email to get your [] opinion regarding my initial investment and subsequent

returned investment in a real estate venture. As we discussed, the investment was made in a limited liability corporation with no business before City Council or other agencies but its managing partner has [prior] matters before City Council or other agencies []. In this instance, the real estate [REDACTED] does not and will not have any contract or matter before City Council or other agency. The managing partner of the real estate [REDACTED] had matters before City Council or other agencies in the past and may in the future (again nothing pending as outlined in the Charter).

As I mentioned when we talked, to avoid the mere appearance of an impropriety I have requested and received my investment back and I have no financial interest in the real estate venture or the managing partner. I would like your opinion [on whether] I am required to file any disclosure per the Charter. Also, I would like your opinion on any requirements I would have if I kept my investment with the limited liability corporation.

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

III. Applicable Charter Sections

This Request involves Section 2-106.2 of the 2012 Detroit City Charter codified at Sections 2-6-31, 2-6-32, 2-6-33, and 2-6-34. The Disclosure requirements are as follows.

Sec. 2-106.2. - Disclosures.

1. Except as otherwise provided by applicable law, a Public Servant who exercises significant authority shall disclose:
 - a. **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.
 - b. **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.
 - c. **Any interest that he or she**, or an immediate family member **has in real and 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.
 - d. Campaign contributions and expenditures, in accordance with applicable laws.
 - e. **The identity of any immediate family member employed by the City** or who is making application to the City.

2. In addition to compliance with subsection (1) above, contractors and vendors shall disclose:
 - a. The identity of all entities and persons with any financial interest, direct or indirect, in any contract or matter the vendor or contractor has pending before City Council.
 - b. The identity of all entities and persons with any financial interest, direct or indirect, in any contract or matter the vendor or contractor has pending before or within any office, department, or agency of the City.
3. The above disclosures shall be made in writing and be made by sworn, notarized affidavit, in accordance with City ordinance and applicable laws.

IV. Application of the Charter to the Facts Presented

Since the Request involves disclosures about financial interests, subsections d and e are irrelevant because they address familial relationships. The requirements of this section call for disclosure by the public servant or its family member when there is:

- any contract or matter **pending before** City Council;
- any contract or matter **pending before or within any** office, department or agency of the City;
- real and 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.

The Public Servant has stated that he invested and then received his investment back upon learning that the managing partner of the company has done business with and will likely pursue business with the City of Detroit.

Based upon the language of the Ordinance and the Charter, there is no disclosure requirement until there is *a matter pending before Council or within any office, department, or agency, or real or personal property subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement or a development agreement* based on the Ethics Ordinance Sec. 2-6-31. Since the Public Servant had no investment with entities who have current pending matters as described in the Charter and Ordinance, there is no disclosure requirement.

The Public Servant's additional question would follow the same logic. There would have to be current pending matters before the City to invoke a requirement to disclose the financial interest. We caution the public servant to have the highest level of scrutiny when reviewing investment opportunities in the City to avoid any conflicts of interests.

*the name has been changed to protect the confidentiality of the process

V. Conclusion

The Board of Ethics concludes the Request for Advisory Opinion 2018-06 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request that shows no requirement to file a disclosure requirement based on Sec. 2-6-31 and strongly encourages the Requestor to impart care when seeking to invest in the City of Detroit.

Detroit Board of Ethics
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Dated: October 2, 2018