

Advisory Opinion No. 93-1

A part-time Councilmanic Aide has requested an opinion from the Conflicts of Interest Board (the "Board") as to whether he may, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, maintain his position as founder and President of a not-for-profit local development corporation. There is a possibility that this corporation will have business which will come before the Council generally; and specifically, business which will come under the consideration of a committee (the "Committee") which the Aide's Council Member chairs. The Councilmanic Aide has stated that he will recuse himself from any involvement with the Committee or with the Council Member in his capacity as Chair of the Committee.

It is the determination of the Board that it is not a violation of Chapter 68 for the Councilmanic Aide to maintain this position. Charter Section 2601(11) excludes a local development corporation from its definition of a "firm". This exclusion recognizes that local development corporations are quasi-governmental

entities, which serve a public purpose. See Conflicts of Interest Board Advisory Opinion No. 92-16, and Board of Ethics Opinion Nos. 584 (1980), 641 (1982) and 653 (1983). Accordingly, this position is not prohibited under Charter Section 2604(a), which prohibits a public servant from having an interest in or a position with a firm which has business dealings with the City.

Moreover, since the Councilmanic Aide has stated that he will recuse himself from any involvement with the Council Member with respect to his duties as Chair of the Committee, he will not be in a position to influence any decisions of the Council which would have an impact on the local development corporation. As a result, his position with the local development corporation does not violate Charter Section 2604(b)(2), which prohibits a public servant from engaging in any private employment which is in conflict with the proper discharge of his or her official duties, nor does it violate Charter Section 2604(b)(3), which prohibits a public servant from using or attempting to use his or her official position to obtain a private advantage for the public servant or for someone associated with the public servant. We note that recusal in this case means that the Councilmanic Aide must not, directly or indirectly, involve himself in any of the business of the Committee

or of the Council Member in his capacity as Chair of the Committee. This includes, but is not limited to, participating in Committee discussions, attending meetings with the Council Member or others concerning Committee business, and receiving copies of relevant documents. See Conflicts of Interest Board Advisory Opinion No. 92-5.

Sheldon Oliensis
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: January 5, 1993