

Community Boards

Charter Sections 2604(a)(1)(a)  
2604(b)(1)(b)  
2604(b)(2), (b)(3)

Advisory Opinion No. 96-8

The Conflicts of Interest Board (the "Board") has received a request from the members of a community board for an opinion as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, the chair of the community board may have a private interest in a firm or organization which regularly has matters before the community board. For the reasons discussed in the following opinion, the Board has determined that the chair of a community board may have interests in firms or organizations which regularly have matters before the community board, provided that the chair steps down at meetings which involve discussions or votes on matters involving such private interests, and, further, that the chair refrains from making any decisions or taking any other official actions on matters involving his or her

private interests.

### Discussion

In Advisory Opinion No. 93-2, the Board determined that community board members who are also employees of other City agencies may not chair community board committees which regularly consider matters involving these City employees' City agencies. In that opinion, the Board noted that while a community board member may have an interest in a firm which may be affected by an action on a matter before the community board, the member may not vote on any matter before the community board which may result in a personal and direct economic gain to the member or any person with whom the member is associated. See Charter Sections 2604(a)(1)(a) and (b)(1)(b). The Board reasoned that the same concerns which are raised by a community board member's voting on a matter involving his or her private interest may also be present when a member chairs a committee which considers matters related to that interest because a committee chair can "greatly influence a committee by controlling the agenda,

recognizing speakers and making rulings." See Advisory Opinion No. 93-2. In Advisory Opinion No. 95-18, the Board determined that community board members may not chair committees if those committees are likely to have matters before the community board which concern the members' private interests or employment.

While committee chairs are generally appointed by the chair of a community board, the chair of the full community board is elected by its other members. Thus, community board members may decide whether or not to vote for a candidate for chair with knowledge of that candidate's private interests. In addition, although the chair of a community board may have broad discretion in setting the agenda for community board meetings, there are many matters which are required to come before the full community board for a decision or recommendation (e.g., zoning matters, requests for variances, etc.) The chair's role in setting the agenda for the meeting is thus limited with respect to such matters. Finally, the Board has been advised by staff of the Community Assistance Unit that it has been the ongoing practice of the community boards to require that the chair of the community board step down as

chair at any meetings during which matters involving his or her private interests are discussed or voted upon.

The community boards' current practice of requiring that the chair of a community board relinquish his or her role as chair at any meetings at which matters involving his or her private interests are discussed or voted upon protects against the appearance that the chair may be unduly influenced by his or her private interests in exercising his or her official duties. See Charter Section 2604(b)(2), which provides that "no public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties." Accordingly, it is the opinion of the Board that all community boards must require that the chair of their respective boards step down at any meetings at which matters involving his or her private interests are discussed or voted upon.

Furthermore, to ensure that a community board chair does not use or appear to use his or her official

position for the private advantage of any firm or organization with which he or she is associated,<sup>1</sup> it is the opinion of the Board that the chair of a community board must also refrain from making any decisions or taking any other official actions on matters involving his or her private interests. See Charter Section 2604(b)(3), which provides that "no public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant." A community board chair thus may not, among other things, choose matters for the agenda or appoint committee chairs when such actions would significantly affect the chair's private interests. However, like all other community board members, the chair may discuss matters before the community board related to his or her private interests, provided that the chair

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<sup>1</sup> A person or firm "associated" with a public servant includes a spouse, child, parent or sibling; a person with whom the public servant has a business or financial relationship; and each firm in which the public servant has a present or potential interest. See Charter Section 2601(5).

discloses his or her interest in the matter to the other members of the community board and refrains from voting on such matters. See Charter Sections 2604(a)(1)(a) and (b)(1)(b).

Conclusion

For the reasons stated above, it is the opinion of the Board that the chair of a community board may have interests in firms or organizations which regularly have matters before the community board, provided that the chair steps down at meetings which involve discussions or votes on matters involving such private interests, and that the chair refrains from making any decisions or taking any other official actions on matters involving his or her private interests; however, the chair may otherwise continue to participate at community board meetings and, with proper disclosure, discuss matters involving his or her private interests to the same extent as other community board members.

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Advisory Opinion No. 96-8  
August 26, 1996  
Page 7

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Dated: August 26, 1996