



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

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Police Officers Given
Special consideration for Residency
in City Housing

Charter Section 2604(b)(3)

Advisory Opinion No. 97-2

The Conflicts of Interest Board (the "Board") has received a request for an opinion from the New York City Housing Authority (the "NYCHA") and the New York City Police Department (the "NYPD"), asking whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, NYPD police officers may be given special consideration for residency in public housing developments, as part of the NYCHA's proposed Resident Police Program (the "Program"). For the reasons discussed below, it is the opinion of the Board that NYPD police officers may participate in the Program.

The Board has received letters from Jeffery Schanback, the NYCHA's General Counsel, and Police Commissioner Howard Safir, in which they describe, and approve their respective agencies' participation in, the Program. Commissioner Safir has advised the Board that the Program is designed to increase police

presence at housing projects by offering police officers the opportunity to rent apartments from the NYCHA at special rates. Police officers would be given special consideration over other qualified applicants who are currently on waiting lists, but these officers would also be required to perform five hours of community service each month in local youth and senior citizen programs.

Mr. Schanback has advised the Board that, since 1994, Federal law, via the National Affordable Housing Act, has empowered public housing authorities to submit to the Secretary of Housing and Urban Development ("HUD") plans whereby public housing units may be allocated for occupancy by police officers who would not otherwise be eligible to become public housing tenants. In 1995, HUD approved the NYCHA's plan, permitting the rental of apartments to police officers.

Mr. Schanback also has advised the Board that this year both houses of Congress have considered, though have not enacted, additional public housing reform legislation, to substantially expand the authority of public housing agencies to admit police officers as residents. One of the purposes of such proposed legislation is "to increase security for other public

housing residents in developments where crime has been a problem."

Commissioner Safir has noted in his letter that the Program would provide a benefit both to the officers who voluntarily participate in it and to the other residents of the City's public housing developments. Commissioner Safir also has stated his opinion that the police officers who participate in the Program would "serve as positive role models in the community, thereby decreasing the likelihood that young people will become involved in criminal activity."

The City's conflicts of interest law prohibits public servants from using their position as public servants to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for themselves or for any person or firm associated with them. See Charter Section 2604(b)(3). Thus, public servants may not affirmatively use their official City position to get special treatment with respect to any non-City activities or interests. Indeed, in the Board's Advisory Opinion No. 92-3, the Board determined that it would have violated the conflicts of interest law for a public servant, who was an employee of the Department of Housing Preservation and Development, to rent an

apartment in a building that he learned was available only as the result of his official duties. It was the opinion of the Board that, under the circumstances of that case, the public servant's actions could have created the appearance that he obtained a private advantage because of his official position.

The police officers' participation in the Program, however, would not create such an appearance for several significant reasons. First, Federal law encourages programs such as these, which are intended to increase the security of public housing developments where crime has been a problem. Second, the police officers would not be seeking to use their positions for private gain; rather, both the NYCHA and the NYPD have actively solicited and encouraged these officers to participate in the Program, in furtherance of the purposes and interests of the City. Third, both Mr. Schanback and Commissioner Safir, in approving the Program, have stated their beliefs that the police officers' involvement in the Program would serve the City's interests. In addition, it is worth noting that the police officers' participation in the Program would be conditioned on their performing several hours of community service each month.

It is the opinion of the Board that, based on the representations of Mr. Schanback and Commissioner Safir, and in light of the particular circumstances of this case, the benefit that the housing project residents and the City would gain from this Program significantly outweighs any personal advantages the participating police officers might gain from the Program and, therefore, the police officers' participation in the Program currently and, if the proposed Federal legislation is enacted, in the future would be consistent with Chapter 68.

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Dated: September 22, 1997