

Advisory Opinion No. 92-2

A former agency head has asked the Conflicts of Interest Board for an opinion as to whether, consistent with former Chapter 68 of the City Charter, he may be a consultant to a firm with respect to its proposed purchase of a City-owned site administered by his former agency. As we explain below, it is our opinion that his service as a consultant on this matter is prohibited by former Chapter 68, for three years after the termination of his City service.

During the former public servant's City employment, the firm approached his agency about the possibility of purchasing this site. The former agency head signed the contract which permitted an appraisal of this site, which the firm paid for, to begin. He advised the Board that he did not read the contract, and signed it only because he signed all agency contracts after appropriate authorization by other officials. He had no other involvement with this matter.

Former Chapter 68 applies to this former public servant because he left City government before April 1,

1990, the effective date of the post-employment provisions of revised Chapter 68.\* Former Charter Section 2604(h) provides that no former City employee, whether paid or unpaid, shall, within a period of three years after termination of his or her employment, appear before any City agency, or receive compensation for any services rendered, "[i]n relation to any case, proceeding, application or other matter with respect to which during his employment he was directly concerned, or in which he personally participated, or which was under his active consideration, or with respect to which special knowledge or information was made available to him as result of his employment."

It is the opinion of the Board that the former agency head's signing the contract approving the appraisal of this site on behalf of this firm falls within the post-employment provisions of former Chapter 68 and bars his proposed subsequent involvement with the same site on behalf of the same firm. We note that the post-employment provisions in revised Chapter 68 apply to a former public servant's involvement with particular matters with respect to which he or she "[h]ad participated in personally and substantially as

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\* The other substantive provisions of Chapter 68 went into effect on January 1, 1990.

a public servant through decision, approval, recommendation, investigation or other similar activities". (Emphasis added.) See Charter Section 2604(d)(4).

In our view, this firm's proposed purchase of this City-owned site administered by this agency is, under the circumstances here described, a matter with which the former agency head was as a City official "[d]irectly concerned, or in which he personally participated, or which was under his active consideration." Thus, he cannot appear before a City agency or receive compensation for services rendered concerning this matter for a period of three years after his City employment. See former Charter Section 2604(h).

Sheldon Oliensis  
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: January 9, 1992