

Advisory Opinion No. 92-16

A high level public servant has asked the Conflicts of Interest Board for an opinion as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, he may negotiate for a position with a District Management Association which will manage a Business Improvement District. His duties for the City involve the same neighborhood and subject matter as the Business Improvement District will deal with. As part of his official duties he had served on a not-for-profit corporation which explored the viability of the Business Improvement District and would serve in an ex-officio capacity on the board of directors of the District Management Association.

Charter Section 2604(d)(1)(ii) provides that no public servant shall solicit, negotiate for or accept any position "with any person or firm which is involved in a particular matter with the city, while such public servant is actively considering, or is directly concerned or personally participating in such particular matter on behalf of the city." This prohibition is not applicable to "[a] public benefit

corporation, local development corporation or other similar entity as defined by rule of the board." See Charter Section 2601(11).

In our view, district managements associations and business improvement districts are similar to local development corporations and thus public servants may accept or negotiate for positions with them. As with local development corporations, these are quasi-governmental entities and service with these organizations does not conflict with the City's interests. Our conclusion is consistent with Board of Ethics Opinion No. 680 (1987) which held that it was not a violation of former Chapter 68 for City officials to be members, directors and officers of district management associations and business improvement districts because of the similarity of these entities to local development corporations.\*

As such, it follows that District Management Associations and Business Improvement Associations

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\*Business Improvement Districts, which must be approved by the City Council, permit local property owners and merchants to use the City's tax collection powers to assess themselves. These funds are collected by the City and used in the district to supplement services for maintenance, sanitation and security for capital improvements, such as tree planting. District Management Associations are not-for-profit corporations with directors who represent property owners, tenants of commercial and residential space and City officials. See Section 25-413(b) of the Administrative Code.

should not be included in the definition of "firm" in Charter Section 2601(11). Accordingly, it is the opinion of the Board that it would not be a violation of Chapter 68 for the public servant to negotiate for the position on the District Management Association while he is a public servant, inasmuch as Charter Section 2604(d)(1)(ii) does not restrict a public servant's negotiations for employment with any entity which, for the purposes of Chapter 68, is not a "firm".

Beryl R. Jones  
Acting Chair

Benjamin Gim

Robert J. McGuire

Sheldon Oliensis

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Dated: July 14, 1992