

Advisory Opinion No. 92-35

The Conflicts of Interest Board (the "Board") has received a request from a public servant for an opinion as to whether he can maintain his ownership interest in certain partnerships which own buildings with apartments which are rented to individuals receiving public assistance. The partnerships receive housing assistance payments, on behalf of such individuals, directly from a City agency pursuant to a City emergency housing assistance program.

Charter Section 2604(a)(1)(b) prohibits a regular employee of the City from having an interest in a firm which is engaged in business dealings with the City. Charter Section 2604(a)(3) further provides that an employee with such a prohibited interest must either divest the ownership interest or disclose the interest to the Board and comply with its order.

When a public servant discloses a prohibited interest to the Board, Charter Section 2604(a)(4) states that the Board shall issue an order setting forth its determination as to whether or not such

interest, if maintained, would be in conflict with the proper discharge of the public servant's official duties.* In making this determination, the Board is to take into account the nature of the public servant's official duties, the manner in which the interest may be affected by any action of the city, and the appearance of conflict to the public.

The ownership interest held by the public servant is an interest in a firm engaged in business dealings with the City, under Charter Section 2604(a)(1)(b). However, the nature of the position and duties of the public servant, who is employed by an agency other than that which does business with the public servant's partnerships, are such that it is unlikely that he would be able to use his position to obtain an advantage for the partnership in its business dealings with the City. Similarly, there is no evidence to suggest that he has used his position to procure tenants or that his position would enable him to procure tenants more easily or on more favorable terms than other owners of rental property. For these

* Subsequent to his request, the public servant advised the Board that he had transferred his ownership interest in these properties to his father. Since the Board has concluded that divestiture is not required, this opinion does not deal with or comment upon this transfer, or on the question of whether a transfer to a family member would constitute adequate divestiture for purposes of Charter Section 2604(a)(3).

reasons, the public servant's ownership interest in these partnerships does not conflict with the proper discharge of his official duties and he is not required to divest that interest.

Accordingly, it is the determination of the Board (and the Board's order pursuant to Section 2604(a)(4)) that the public servant may maintain his interest in these properties under the circumstances as described.

Sheldon Oliensis
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: November 23, 1992