

*City of Detroit Board of Ethics*

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**Advisory Opinion #2020-09**  
**Issued: July 21, 2020**

**Advisory Opinion #2020-09:** It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2020-09. It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2020-09. If the Requestor has no personal services contract with the City, she must not lobby, or appear before, the City Council or any department, agency, board, commission, or other body of the City in relation to any matter that she was directly concerned with, personally participated in, actively considered, or acquired knowledge about, while she was in the course of performing her duties for the City. Also, the Requestor must not receive compensation for performing any services in relation to any matter that she was directly concerned with, personally participated in, actively considered, or acquired knowledge about, while she was in the course of performing her duties for the City. This restriction includes real estate projects that Requestor worked on while with the City. These restrictions do not apply if the Requestor was employed under a personal services contract.

Additionally, for a period of one year after the end of the Requestor's employment with the City, the Requestor must not accept employment with any person who, or entity that, provided goods or services to the City pursuant to a contract other than a personal services contract while the Requestor was a public servant, if the Requestor was in any way involved in the award or management of the contract or the employment would require the Requestor to share confidential information. Confidential information is information that is obtained by a public servant in the course of acting as a public servant, and is not available to the public, and the public servant is not authorized to disclose the information. However, if the Requestor owns a private practice and is self-employed as a private practitioner, then Section 2-5-71 (b) is not be applicable to the Requestor's private practice.

## I. Procedural Background

Request for Advisory Opinion 2020-09 (the “Request”) was sent to the Board of Ethics (the “Board”) by electronic communication and received on February 25, 2020. In accordance with Sec. 2-6.101, the Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the “Ordinance”). The Public Servant maintains confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (Code), the 91-day period for review of this request will conclude on May 26, 2020. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on August 25, 2020.

At its meeting on July 21, 2020, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-6-101 of the Ordinance. The Board heard a Preliminary Analysis from legal counsel on the same day, and after consideration and discussion of the issues presented, the Board decided to issue this Advisory Opinion pursuant to Section 2-5-124(b)(4).

## II. Information from the Request

The Requestor is a [REDACTED] for the City's [REDACTED]. The Requestor seeks an advisory opinion about how the Standards of Conduct apply to her if she leaves her City position and goes into private practice.

I currently work for the City of Detroit [REDACTED], and am in charge of [REDACTED]. I am contemplating leaving my current place of employment and going into private practice. Can you clarify with regard to Sec. 2-6-72(a), what my work restrictions would be after my separation from the City of Detroit?

The Requestor would like to know under what conditions may she work in private practice after leaving her position with the City. The Ethics Ordinance was updated in 2019, during the recodification of the Detroit City Code. The section under consideration is Section 2-5-71 rather than 2-6-72. By this request, the Requestor seeks an advisory opinion as to the applicability of the 2012 Detroit City Charter and 2019 Detroit City Code.

## III. Applicable Charter Sections

The 2012 Detroit City Charter provides at Section 2-106.1 that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect

their personal or financial interests. This Request involves Section 2-106.4 of the 2012 Detroit City Charter codified at Sections 2-5-71 of the 2019 Detroit City Code. It states as follows:

**Sec. 2-5-71. - One year post-employment prohibition.**

(a) Subject to state law, for one year after employment with the City, a public servant shall not lobby or appear before the City Council or any City department, agency, board, commission or body, or receive compensation for any services in connection with any matter in which the public servant was directly concerned, personally participated, actively considered or acquired knowledge while working for the City.

(b) Subject to state law, for one year after employment with the City, a public servant shall not accept employment with any person who, or entity which, did business with the City during the former public servant's tenure where the public servant was in any way involved in the award or management of the contract, or the employment would require the sharing of confidential information.

(Code 1984, § 2-6-72; Ord. No. 18-12, § 1(2-6-72), eff. 8-31-2012)

**IV. Application of the Charter and Code to the Information Presented**

The Requestor did not divulge whether she is employed under a personal services contract with the City. Even so, Section 2-5-71(a) of the Ethics Ordinance addresses two related areas of prohibition. If the Requestor has no personal services contract with the City, she must not lobby, or appear before, the City Council or any department, agency, board, commission, or other body of the City in relation to any matter that she was directly concerned with, personally participated in, actively considered, or acquired knowledge about, while she was in the course of performing her duties for the City.

Also, the Requestor must not receive compensation for performing any services in relation to any of those matter that she was directly concerned with, personally participated in, actively considered, or acquired knowledge about, while she was in the course of performing her duties for the City. This restriction includes real estate projects that Requestor worked on while with the City. These restrictions do not apply if the Requestor was employed under a personal services contract.

Additionally, for a period of one year after the end of the Requestor's employment with the City, the Requestor must not accept employment with any person who, or entity that, provided goods or services to the City pursuant to a contract (other than a personal services contract) while the Requestor was a public servant, if the Requestor was in any way involved in the award or management of the contract or the employment would require the Requestor to share confidential information.

Confidential information is information that is obtained by a public servant in the course of acting as a public servant, and is not available to the public, and the public servant is not authorized to disclose the information. However, if the Requestor owns a private practice and is self-employed as a private practitioner, then Section 2-5-71 (b) is not be applicable to the Requestor's private practice.

## V. Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2020-09. If the Requestor has no personal services contract with the City, she must not lobby, or appear before, the City Council or any department, agency, board, commission, or other body of the City in relation to any matter that she was directly concerned with, personally participated in, actively considered, or acquired knowledge about, while she was in the course of performing her duties for the City. Also, the Requestor must not receive compensation for performing any services in relation to any matter that she was directly concerned with, personally participated in, actively considered, or acquired knowledge about, while she was in the course of performing her duties for the City. This restriction includes [REDACTED] that Requestor worked on while with the City. These restrictions do not apply if the Requestor was employed under a personal services contract.

Additionally, for a period of one year after the end of the Requestor's employment with the City, the Requestor must not accept employment with any person who, or entity that, provided goods or services to the City pursuant to a contract other than a personal services contract while the Requestor was a public servant, if the Requestor was in any way involved in the award or management of the contract or the employment would require the Requestor to share confidential information. Confidential information is information that is obtained by a public servant in the course of acting as a public servant, and is not available to the public, and the public servant is not authorized to disclose the information. However, if the Requestor owns a private practice and is self-employed as a private practitioner, then Section 2-5-71 (b) is not be applicable to the Requestor's private practice.

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