

City of Detroit Board of Ethics

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Advisory Opinion #2020-15
Issued: November 17, 2020

Advisory Opinion #2020-01: 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 2020-15. The Requestor is prohibited by the Ethics Ordinance from accepting employment with the [REDACTED] for one year after his retirement with the City of Detroit.

I. Procedural Background

Request for Advisory Opinion 2020-15 (the “Request”) was sent to the Board of Ethics (the “Board”) by electronic communication and received on October 29, 2020. In accordance with Sec. 2-106.1, 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, January 29, 2021. 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 April 29, 2021.

At its meeting on November 17, 2020, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 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 Detroit [REDACTED]. He states:

I am considering early retirement (25 years of service) due to the negative impact on my pension caused by a [REDACTED] furlough and a [REDACTED] pay cut. I would like to seek & accept employment with a [REDACTED] immediately after retirement. I have not had any direct involvement in the management of the contract since 2014. (Sec 2-5-71). Am I able to seek & accept an offer of employment at retirement?

The Requestor would like to know if he can accept employment with a [REDACTED] [REDACTED] who did business with the City of Detroit and whom he was involved with in 2014. 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 2-106.5 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

For a period of one year following the end of a public servant's employment with the City, a public servant is generally prohibited from accepting employment with an entity that had a contract with the City at any time during the public servant's employment with the City if the public servant was in any way involved with the award, according to Section 2-5-71(b) of the Detroit City Code. The Requestor revealed that he was involved with the entity, at least, in 2014. This means he *was in any way involved in the award or management of the contract* during his tenure with the City of Detroit.

He is prohibited from accepting employment with the entity for a period of one year after he retires from the City of Detroit.

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 2020-15. The Requestor is prohibited by the Ethics Ordinance from accepting employment with the [REDACTED] for one year after his retirement with the City of Detroit.

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