

Gary J. Streit
115 Third Street S.E., Suite 500
P.O. Box 2107
Cedar Rapids, IA 52406-2107

(319) 365-9461

2007 NOV 27 A 11: 38

CITY CLERK'S OFFICE
CEDAR RAPIDS, IOWA

November 26, 2007

Council Member Pat Shey
City Council Chambers
City Hall
Cedar Rapids, Iowa 52401

Re: Response to Request for Advisory Opinion

Dear Mr. Shey:

The Cedar Rapids Ethics Board (the "Board") met on Tuesday, November 20, 2007 to respond to the email that you addressed to me. Your email is attached and is incorporated by reference for purposes of providing the appropriate factual background. Technically, a request for an advisory opinion is to be filed with the City Clerk (see Section 6 of the Rules. However, since we are all learning as we go forward with this process, the Board felt it appropriate to address your inquiry in a timely manner.

At the outset, we want to thank you for using the Advisory Opinion mechanism. We hope, as you do, that this process will create a body of written precedent that will help guide the current Council members and future Council members.

The Rules prohibit a City Official (which would include a City Council member) from engaging in a Conflict of Interest Action. A Conflict of Interest Action would include a "vote on a matter in which the City Official has or can reasonably be expected to have a Private Financial Interest in the outcome". (Section 4.D.1.). A Private Financial Interest includes "any direct or indirect economic benefit or other consideration to ... any business entity or organization by which the City Official ... is employed". (Section 4.F.2.).

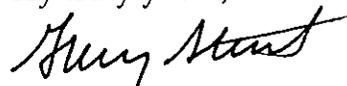
As your email points out, your employer may or may not provide financing for the project that the City Council will be asked to approve. If the resolution provided to the Council indicates that Cedar Rapids Bank and Trust will provide any portion of the financing for the project, we believe that your voting on the resolution that will be presented to the Council would involve an "indirect economic benefit or other consideration to a business entity by which the City Official is ...employed".

On the other hand, if the proposed resolution indicates that Cedar Rapids Bank and Trust will not be providing any portion of the financing for the project, that there would not be an indirect economic benefit to your employer.

It was the Board's assumption that the resolution will clearly indicate the extent to which Cedar Rapids Bank and Trust will be involved in the financing for the project. If the resolution is silent on this issue, the general feeling of the Board is that Mr. Timko's position on the board of Cedar Rapids Bank and Trust would make it reasonably likely that Cedar Rapids Bank and Trust will be involved with the financing for the project and that this situation should be treated in the same manner in which it was definitively stated that Cedar Rapids Bank and Trust were providing the financing.

We would be happy to visit further with you about this matter. A copy of this letter will be given to the City Clerk.

Very truly yours,



GARY J. STREIT, Chair

cc: City Clerk
Susan O'Connor
Bill Quinby
Judith Whetstine
Bill Vincent

Gary Streit

From: Shey, Pat S. [Pat.Shey@cedar-rapids.org]
Sent: Wednesday, November 07, 2007 6:40 PM
To: Gary Streit
Subject: FW: Ethics Opinion

Gary:

The City Council is now considering incentives to assist in the development from low income housing to market rate housing.

Fred Timko, President of Point Builders, has an offer on the table to purchase Osada. The contingencies in the contract include incentives that the city would provide, including streetscape, developing a park, and tax abatement.

Fred Timko is a member of the board of directors of Cedar Rapids Bank & Trust, my employer. Mr Timko is not a client of mine; CRBT may or may not be financing the project. If CRBT does assist with financing, I will not be involved in that process, nor would I receive any commission or incentive in the placement of said loan. CRBT is a publicly traded company, and I am a shareholder of a very small amount of CRBT stock.

My interpretation of the Ethics Rules is that there are no relationships which are a per se conflict of interest; that is, Mr Timko's position as a member of my employer's board of directors does not create a conflict of interest on my part to participate and vote on the Osada project. Moreover, since I own no ownership in Point Builders at any level, that I have no financial conflict of interest as well.

If you believe my interpretation is in error and that I should recuse myself from this matter, please advise at your earliest convenience.

Pat Shey
Council Member - At Large
City of Cedar Rapids
50 Second Avenue Bridge
Cedar Rapids, Iowa 52401
Telephone - 319-286-5051
pat.shey@cedar-rapids.org
www.cedar-rapids.org