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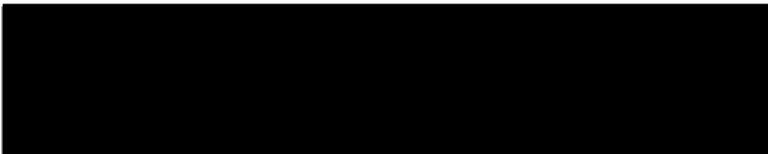
Kevann M. Cooks

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April 2, 1996



Re: 96 A 0007 ACCEPTANCE OF PAVEMENT MARKING MATERIAL FOR
TEST INSTALLATION ON COOK COUNTY HIGHWAYS

Dear [Redacted]:

This letter is in response to your request for an advisory opinion regarding the above referenced matter. This advisory opinion should only be relied upon for the specific set of facts presented.

FACTS

[Redacted] a sales representative for the Stimsonite Corporation, offered [Redacted] the Transportation and Planning Bureau for the Cook County Highway Department, a test installation of a hot tape stop line pavement marking on a County maintained roadway. The Stimsonite Corporation, located at 7452 North Natchez Avenue, Niles, Illinois, is known in the highway field for the manufacture of reflective pavement markers and reflective sheeting used in the manufacture of highway signs. Stimsonite recently acquired a pavement marking company that manufactures a permanent hot tape stop line pavement marking. The value of the 48'x 24" stop line gift is \$2.85 per sq. ft. totalling \$273.60. If approved, the Highway Department is considering installing the pavement marking at the intersection of Meacham and Schaumburg Roads.

The Cook County Highway Department does not purchase any items directly from Stimsonite although the Highway Department does require raised reflective pavement markers in its 1996 contract. Further, the Highway Department needs 1,000 replacement reflectors in its 1996 contract. Stimsonite manufactures materials for use in these products.

ISSUE

CAN THE HIGHWAY DEPARTMENT ACCEPT PAVEMENT MARKING MATERIALS FOR TEST INSTALLATION ON HIGHWAYS MAINTAINED BY COOK COUNTY FROM A COMPANY THAT INDIRECTLY SUPPLIES MATERIALS TO THE COUNTY?

APPLICABLE SECTIONS

2.4 Receiving and Soliciting Gifts and Favors.

- ...
- (b) No official or employee or any of their relatives shall knowingly solicit, accept, receive or agree to receive, either directly or indirectly, anything of value, including but not limited to an alleged gift, favor or promise of future employment, based upon any mutual understanding, either explicit or implicit, that the votes, official actions, decisions or judgments of such official or employee concerning the business of the County would be influenced.
- ...
- (d) No Gifts which have a value of greater than \$125 (or a series of Gifts with an aggregate value of greater than \$125 during any twelve month period) may be received by Officials, Employees, or any Relatives residing in their households from (1) Persons with a Financial interest in County business; (2) Persons Seeking to do business with the County; or (3) Persons who are compensated lobbyists on County matters. ...

DISCUSSION

The Cook County Highway Department may accept the test installation of the hot tape stop line pavement marking. Under Section 2.4(b) of the Ethics Ordinance, an employee is prohibited from accepting a gift if there is any mutual understanding that decisions concerning County business will be influenced. The Board believes the acceptance of the pavement marking is unlikely to influence decision making since there is no evidence of a mutual understanding that such acceptance will influence the business of the County on behalf of the donor. In reaching this decision, the Board considered the minimal value of the donation, \$273.60, and found it was not likely to influence the decision making process.

The intent of the Ethics Ordinance is to regulate the behavior of County employees so as to prohibit the acceptance of gifts when County business will be influenced. The Ethics Ordinance is focused mainly on improper gifts to individuals, not items donated to the County. This item is being offered to the Highway Department. Items donated to the County can benefit the County in numerous ways. First, the donations save the County and the taxpayers money. In addition, the department receiving the donation may gain knowledge about and exposure to supplies, equipment and materials to which the department may not otherwise have access.

In this case it appears that the County would gain exposure to a new type of product that could benefit the Highway Department. The Cook County Highway Department currently uses non-permanent paint for the majority of its pavement markings. In order to install crosswalk lines, stop lines and other letters and symbols using only non-permanent paint, traffic lanes must be closed. Repeated lane closures cause a hazard to both motorists and workers. The Department is presently considering installing some type of permanent pavement marking, one which will satisfactorily endure for a number of years and not require annual refurbishing. The test installation material being offered is one type of product that the County would consider. Supposedly, it can be installed regardless of temperature.

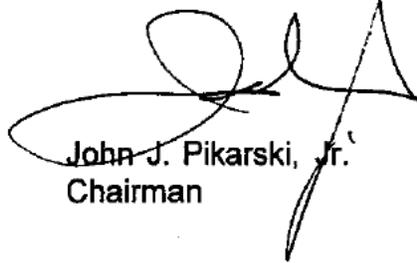
As well, the Board understands that all of the pavement marking contracts, and the striping-intersections and crosswalks contracts are put out for bid and the lowest qualified bidder receives the contract. The Board also realizes that on some occasions the lowest bidder subcontracts for the furnishing and installation of an item and that it is the contractor or sub-contractor who makes the decision on which marker to furnish, which may or may not be manufactured by Stimsonite Corporation. Therefore, the Board believes that the safeguards established by competitive bidding help to eliminate the possibility that any department that may receive a gift will have the ability to influence any County purchasing decision.

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I hope that this advisory opinion answers your questions. The Board thanks you for your inquiry and commends you for your conscientiousness in seeking to uphold the guiding principles of the Ethics Ordinance. Please feel free to contact the Board of Ethics if you have any additional questions or comments.

Sincerely,

COOK COUNTY BOARD OF ETHICS



John J. Pikarski, Jr.
Chairman

jpm

cc: [REDACTED]