

CONFIDENTIAL

**COOK COUNTY
BOARD OF ETHICS
69 West Washington Street, Suite 3040
Chicago, Illinois 60602**

IN THE MATTER OF) **11 I 0001 (I)**
)
Joseph Berrios, Cook County Assessor,) **June 20, 2012**
Respondent)

NOTICE OF FINDING OF VIOLATION

The Cook County Board of Ethics ("Board"), upon investigation of the above-captioned matter, has concluded that Cook County Assessor Joseph Berrios has violated provisions of the Cook County Ethics Ordinance ("Ordinance"). A copy of the investigation report is enclosed with this Notice.

Section 2-571 - Fiduciary Duty

Section 2-571 of the Ordinance states that officials and employees shall at all times in the performance of their duties owe a fiduciary duty to the County. As fiduciaries for the public, Cook County officials and employees must perform their duties with the interest of the public in mind and not participate in any action that is deemed improper or in any action that may even give the appearance of impropriety.

All County employees and officials are governed by the affirmative obligations of Section 2-571, however, high ranking officials and employees, such as, Cook County elected officials, by virtue of their position of confidence and authority are held even more rigorously to these standards.

Maintaining the public trust and confidence of those that government serves, is a key component of being a fiduciary. The hiring and or employing of family members as County employees undermines this public trust. An elected official who engages in such conduct has breached their fiduciary duty, both to the public who elected the official, and to the public he or she was elected to serve.

Based on investigation, the Board concludes that Respondent, Cook County Assessor Joseph Berrios, violated Section 2-571 of the Ordinance, Fiduciary Duty, when he hired two relatives to work in the Office of the Assessor under his supervision, authority, and control, with full knowledge that the Cook County Ethics Ordinance prohibits their employment.¹

¹ On December 20, 2010, the Cook County Board of Ethics and the Cook County Office of the Independent Inspector General circulated a letter to all Cook County elected officials regarding interpretation of Section 2-582 of the Cook County Ethics Ordinance. The joint letter addressed the applicability of Section 2-582 to both exempt and not exempt positions in Cook County government. In addition, the joint letter also stated that no support was found for the position that would allow a related official or employee to hire a relative who ostensibly had a "high degree of competence and qualifications for a position, in contravention of the prohibitions in the Ethics Ordinance."

Section 2-582 - Employment of Relatives

As stated herein, Section 2-582 was enacted because the hiring and or employing of family members as County employees undermines the public trust. Rather than promote an open and transparent governmental hiring process, this conduct promotes the opposite, a closed and opaque process. The Board finds that allowing this conduct to proceed unchecked and unchallenged bestows an unfair advantage onto those with familial connections, and that this conduct is in direct contravention of the letter and spirit of the Cook County Ethics Ordinance which this Board has been entrusted to enforce by the Cook County Board of Commissioners.

In this case, there is no dispute that Joseph Berrios is a Cook County elected official who serves as the Cook County Assessor. As the Assessor of Cook County, Joseph Berrios is the ultimate authority in the Office of the Assessor. There is no dispute Cook County Assessor Joseph Berrios hired and participated in the hiring decisions regarding two of his relatives, Carmen Berrios Cruz and Joseph E. Berrios, both of whom remain employed in the Office of the Cook County Assessor. Based upon a plain reading of the Ordinance in effect at the time they were hired, and as amended, Assessor Berrios violated Section 2-582 of the Ethics Ordinance when he hired both his sister and his son. In addition, their continued employment in the Office of the Assessor also violates Section 2-582, as amended.²

Recommendation for Corrective Action

It is the Board of Ethics' recommendation that the Assessor remove his sister and son from the County Assessor Office's payroll, and fill those positions in accordance with the proper and customary hiring process, and not by relatives as defined by the Cook County Ethics Ordinance.

The Board vigorously enforces the Ethics Ordinance, and it strives for consistent interpretation of Ordinance provisions. The Board recognizes that a recommendation to remove an individual from employment is a difficult recommendation to carry out. However, the Ethics Ordinance is clear, it places the interests of the taxpayers first; it holds elected officials accountable to a code of ethical conduct; and, it advances articulated goals of an open, accountable and transparent County government. To recommend relief other than removal would be to support a continuing violation of the Ethics Ordinance, and would be inapposite and inconsistent with the mission and mandate charged to the Board of Ethics by the Cook County Board of Commissioners.

Fines

Section 2-602 (d) provides that "Any person, including officials or candidates, found by the Board to have knowingly violated any provision of this article other than Section 2-574 or 2-583,

² This Section of the Ordinance was amended by the Cook County Board of Commissioners in March 2011 to expand the scope of this Section's coverage beyond just "participating in a hiring decision, or shall employ or advocate for employment, in any agency over which such official or employee either serves or over which he or she exercises authority, supervision or control..." This amendment was effective immediately upon passage.

or to have knowingly furnished false or misleading information to the Board, shall be subject to a fine of at least \$500.00 and up to \$5,000.00, for any one offense.”

Assessor Berrios' actions show a knowing and flagrant disregard of both the letter and spirit of the ethical standards that all public officials are required to adhere to. In this case, Respondent was aware of the Ethics Ordinance provisions which he is accused of violating, and yet, has shown complete disregard for the Ordinance provisions and the investigation process.

For the multiple violations of the Cook County Ethics Ordinance and the breach of the public trust as set forth in the Investigation Report, the Board finds that in accordance with Section 2-602 (d) of the Cook County Ethics Ordinance, the assessment of fines in this matter is appropriate.

The Board finds violations of Section 2-571, Breach of Fiduciary Duty, and Section 2-582, Employment of Relatives, for the hiring and continued employment of Carmen Berrios Cruz and for the hiring and continued employment of Joseph E. Berrios. The Board of Ethics assesses the following fines: A fine in the amount of \$5,000.00 (five thousand dollars) with respect to the hiring and employment of Carmen Berrios Cruz, and a fine in the amount of \$5,000.00 (five thousand dollars) with respect to the hiring and employment of Joseph E. Berrios.

In accordance with Section 2-591(9) of the Ethics Ordinance, the Respondent shall, within 30 days of receipt of this notice, report to the Board in writing the action(s) taken on the Board's recommendation.

In accordance with Section 5.19 of the Board's Rules and Regulations, a request for reconsideration of this determination may be filed with the Board. The request for reconsideration must be filed with the Board within 30 days of receipt of this Notice. The party requesting review must state with specificity the reason(s) and evidence supporting the request for reconsideration.

COOK COUNTY BOARD OF ETHICS

Roseann Oliver, Chairperson