

CONFIDENTIAL

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

IN THE MATTER OF) **11 I 0001 (II)**
)
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 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 the 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 changed the title/position and increased the salary of his daughter, Vanessa Berrios, who already worked in the Office of the Assessor.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 that Assessor Berrios' daughter, Vanessa Berrios, was employed in the Assessor's Office prior to the time Assessor Berrios took office in December, 2010. There is no dispute that upon taking office, he changed her title/position, increased her responsibilities, and increased her salary, and there is also no dispute and that she remains employed by the Assessor to date.

Assessor Berrios' actions clearly demonstrate that he has authority, supervision and control over his daughter's employment. There is no "grandfather clause" for this Ordinance provision that provides an exception to the Ordinance restrictions in this case and allows the Assessor to continue to employ his daughter irrespective of the Employment of Relatives prohibition in Section 2-582(a). The safeguards put in place by the Ordinance guard against both actual and potential abuse, and address the appearance of impropriety and myriad of other issues that may be presented when an elected official hires, employs or supervises their relatives.

Under Section 2-582(a), as amended in March 2011, the actions of the Assessor with regard to the continued employment of Assessor Berrios' daughter Vanessa, in the Office of the Assessor, are a clear violation of the Ethics Ordinance.²

Recommendation for Corrective Action

In a companion matter, 11 I 0001 (I), the Board of Ethics recommended that the Assessor remove two other relatives from the County Assessor Office's payroll and fill these positions in accordance with the proper and customary hiring process, and not by relatives as defined by the Cook County Ethics Ordinance. In this case, the Assessor's continued employment of his daughter over whom he exercises supervision, authority, or control, is also a clear violation under the amended language of the Ordinance, although it was not a violation on the day the Assessor took office.

² This 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 "participating in a hiring decision" to "participate 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..."

It is the Board's recommendation that the Assessor remove his daughter from the County Assessor Office's payroll, and fill that position in accordance with the proper and customary hiring process, and not fill the position with a relative 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.

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