

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

IN THE MATTER OF)	
)	
Michael Fazio, Deputy Commissioner)	Case No. 2012 I 0002
Cook County Department of Building and Zoning)	
)	

NOTICE OF DETERMINATION

On November 21, 2011, the Board of Ethics (“Board”) received a written complaint by Jay and Kay Konow¹ via U.S. Mail. The written complaint alleged, *inter alia*, that Michael Fazio, Deputy Commissioner for the Cook County Department of Building and Zoning, was conducting personal real estate business on County time and that he was using County-owned property (*i.e.* a County-issued cellphone) to do so.

Based on this complaint, the Board undertook an investigation of Fazio to determine: (1) whether his acceptance of personal employment with a real estate brokerage violated Section 2-573 – Dual Employment of the Cook County Ethics Ordinance (“Ethics Ordinance”) and (2) whether he engaged in the unauthorized use of County-owned or County-leased property to conduct personal real estate business on County time, in violation of Section 2-576 – County-Owned Property of the Ethics Ordinance. The Board has completed its investigation and determined that no violation of either provision of the Ethics Ordinance occurred.

INVESTIGATION SUMMARY

An investigation directed by the Board found evidence supporting the following:

Michael Fazio has been a Cook County employee since 2008 and is currently the Deputy Commissioner of the Cook County Department of Building and Zoning (“Department”). As Deputy Commissioner, Fazio is second in command of the Department, which oversees enforcement of building and zoning ordinances in unincorporated Cook County.

In addition to his County duties, Fazio has an active Illinois real estate broker license and, for the last 15 years, has maintained disclosed dual employment as a real estate broker with Sergio & Banks Enterprises, Inc. (“S&BE”), a Chicago-based broker of commercial and residential properties. As a real estate broker, Fazio shows properties and negotiates residential and commercial real estate contracts for up to six hours per week on the weekends. Per Department

¹ Jay and Kay Konow appear to be pseudonyms for an, or several, anonymous complainants.

regulations put in place after Department Commissioner Timothy Bleuher solicited an advisory opinion from the Board (12A0004), Fazio does not reference his County title or position in solicitations or advertisements for S&BE. He does not take listings or negotiate real estate transactions for S&BE in unincorporated Cook County. Further, he must disclose to Commissioner Bleuher when he is approached with such an opportunity and confirm in writing that he declined.

Investigators were unable to substantiate rumors that Fazio engaged in personal business on County time or using County property. Witnesses in the best position to observe Fazio, either through direct supervision or physical proximity, attested that Fazio never did work for S&BE on County time or using County resources. A review of approximately 30 months of billing records for Fazio's County-issued cellphone corroborates this with respect to the specific device identified in the Konow complaint. During the period examined (approximately January 2010 to May 2012), there is not a single phone call of any duration at any time that appears to be related to Fazio's work for S&BE or its clients.

DISCUSSION

Section 2-573 – Dual Employment

Section 2-573 of the Ethics Ordinance prohibits dual employment which will impair an employee's independence of judgment in the exercise of his or her official duties or which will impair his or her ability to perform County duties and responsibilities. *See* County Code, § 2-573. The evidence obtained in this investigation does not support the allegation that Fazio has acted in an unprofessional or unethical manner with respect to his disclosed dual employment.

Fazio disclosed his dual employment both in his interview with investigators and, more formally, to his Department head and the Bureau of Human Resources. Fazio's secondary employment received the necessary approvals and, according to Fazio's direct supervisor, is not objectively degrading or impairing the quality of Fazio's work.

Commissioner Bleuher solicited the advice of this Board and is to be commended for putting in place appropriate controls to minimize even the appearance of impropriety with respect to Fazio's dual employment. By not taking listings or negotiating real estate transactions in unincorporated Cook County (and disclosing when he is approached to do so), there is no overlap between Fazio's County work and his work for S&BE. Further by refraining from publicizing his County employment in connection with his work for S&BE, the Department has taken steps to minimize the risk that S&BE clients will erroneously perceive some benefit from hiring an individual with supervisory authority in the Cook County Department of Building and Zoning.

Section 2-576 -- County-Owned Property

Section 2-576 of the Cook County Ethics Ordinance provides that no official or employee shall engage in or permit the unauthorized use of County-owned or County-leased property. *See* County Code, § 2-576. County-owned and County-leased property shall only be used for official County business. *See id.*

Based on the evidence obtained in this investigation, there is no credible evidence to support a finding that Fazio used County-owned or County-leased property for personal real estate business. The allegations against Fazio centered on the use of his County-issued cellphone during County time. Investigators reviewed 30 months of billing records for Fazio's County-issued cellphone and did not find calls to or from the phone, during or outside of County business hours, associated with S&BE or S&BE clients.

CONCLUSION

For the forgoing reasons, with respect to the above-captioned matter, the Board of Ethics concludes that there is NO VIOLATION of Sections 2-573 or 2-576 of the Ethics Ordinance. Any request for reconsideration of this determination must be made within thirty (30) days of receipt of this notice.

September 18, 2013

So ordered
COOK COUNTY BOARD OF ETHICS



Roseann Oliver
Chairperson