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June 21, 2016

Honorable Toni Preckwinkle
and Members of the Board of Commissioners
of Cook County
118 North Clark Street
Chicago, Illinois 60602

Re: IIG14-0511 (Zoning Board of Appeals - Conflicts of Interest Risk Assessment)

Dear President Preckwinkle and Members of the Board of Commissioners:

This letter is written in accordance with Sections 2-288 and 2-289(c)(2) of the Office of the Independent Inspector General (OIIG) Ordinance, Code of Ordinances, Cook County, Illinois, ch. 2, art. IV, div. 5 (2007) (the “OIIG Ordinance”) in connection with a conflicts of interest risk assessment related to the Zoning Board of Appeals. This statement is made to apprise you of the results of our risk assessment.

Background

In order for Cook County residents to lawfully make certain alterations to their properties, they must obtain “Variances” to do so from the Cook County Building and Zoning Department (the “B&Z”).¹ According to the Cook County Zoning Ordinance, the Zoning Administrator is the person in the B&Z who is responsible for reviewing and approving applications for Variances of minor modifications of selected zoning standards.² If the Zoning Administrator denies the Variances, the property owners can file notices of appeal from the Zoning Administrator’s decisions. The Zoning Board of Appeals (the “ZBA”) has the authority to review the B&Z’s decisions related to Variances.³

¹ A variance means a grant of relief from the requirements of the Cook County Zoning Ordinance which permits construction in a manner that would otherwise be prohibited by the Ordinance. See Rules For Filing Variance Application located on the B&Z’s website.

² See Zoning Ordinance, Code of Ordinances, Cook County, Illinois, part II, Appendix A, Art. 13.6.1 (2001).

³ Under section 13.3.2(B) of the Cook County Zoning Ordinance, the Zoning Board of Appeals can hear and make recommendations to the Cook County Board of Commissioners on applications for authorized variances, on variances from any quantitative requirement of this ordinance, and for all applications referred by the Department of Building and Zoning or the Cook County Board of Commissioners. Zoning Ordinance, Code of Ordinances, Cook County, Illinois, part II, Appendix A, Art. 13 (2001).

The ZBA is comprised of a Chairman, six Board Members, and two nonvoting ex-officio members⁴ who preside over the Variance appeals process in Cook County.⁵ The property owners can appear before the ZBA or have legal counsel present their cases. We conducted this conflicts of interest risk assessment (“Risk Assessment”) to determine whether the ZBA has implemented adequate internal controls to provide reasonable assurance that conflicts of interest are timely identified and appropriately managed to ensure fairness in the Variance appeals process.

We relied upon the Cook County Ethics Ordinance as the baseline for our Risk Assessment. The ZBA Board Members who vote on the appeals are subject to rules in the Ethics Ordinance in connection with conflicts of interest. Specifically, Section 2-578(a) of the Ethics Ordinance states:

No official or employee shall make, or participate in making, any County governmental decision and no board or commission appointee shall make, or participate in making, any board or commission decision with respect to any matter in which the official, board or commission appointee or employee, or the spouse, or dependent, domestic partner or civil union partner of the official or employee, has any economic interest distinguishable from that of the general public.

Currently, all County employees and appointees to boards and commissions are required to notify the Cook County Board of Ethics in writing of conflict of interest pursuant to the Ethics Ordinance. Specifically, Section 2-578(c) states:

Any official, board or commission appointee or employee who has a conflict of interest as described by Subsection (a) of this Section shall disclose the conflict of interest in writing the nature and extent of the interest to the Cook County Board of Ethics as soon as the employee, board or commission appointee or official becomes aware of such conflict and shall not take any action or make any decisions regarding that particular matter.

We have interviewed the former Interim Secretary to the ZBA to understand the current practices for identifying and managing conflicts of interest to ensure the ZBA complies with the Ethics Ordinance. Additionally, we met with the Executive Director for the Ethics Department to review any proposals for addressing conflicts of interest related to the ZBA.

Additionally, we conducted a search of D2’s from the Illinois State Board of Elections’ database for campaign contributions made to the voting ZBA members (“Members”). We also

⁴ The two ex-officio nonvoting members consist of the Chairman of the Zoning and Building Committee of the Cook County Board of Commissioners and the Chief of the Bureau of Economic Development of Cook County.

⁵ At the time of this Risk Assessment, there are currently only 6 voting Members because one position is vacant.

reviewed the voting Members' resumes, statements of economic interests,⁶ and public records related to the voting Members. We applied the Cook County Ethics Ordinance to this information to determine whether there was *prima facie* evidence of potential, actual or apparent conflict of interest related to matters heard by the ZBA.

OIIG Findings and Conclusions

We identified three voting Members who have been elected to public office (one has recently left service). We did not identify any obvious campaign contributions from professionals in the real estate industry to the Members.⁷ This review did not include a search to determine whether property owners or their legal counsel made campaign contributions to the elected officials on the ZBA. Rather, our purpose was to identify whether the ZBA is at risk of having any undetected apparent, actual or potential conflicts of interest which could affect the Variance appeals process.

However, this review identified voting Members whose outside employment is related to real estate matters. One of the Members provides architectural and consulting services to clients. Another Member is an attorney who concentrates in real estate matters for developers and other small corporations. There is another Member who is legal counsel for a large company that provides a myriad of related consulting services.

According to the former Interim Secretary of the ZBA and Executive Director of the Board of Ethics, the ZBA does not have any internal policies and procedures for identifying and managing conflicts of interest. Thus, there is a cause for concern that potential conflicts of interest could exist undetected and unresolved in connection with the ZBA's Variance appeals process. Although the Ethics Ordinance imposes an obligation upon the Members to provide a written disclosure of conflicts of interest, the ZBA does not have any existing internal controls to assist with this process.

OIIG Recommendations

The evidence developed during the course of this Risk Assessment supports the conclusion that the ZBA has not implemented effective internal controls to identify and manage potential, apparent, or actual conflicts of interest in connection with the Variance appeals process. Accordingly, based upon all of the foregoing, we recommend the following:

- It is absolutely critical for the ZBA to require its voting Members to complete conflict of interest certification forms for each matter that comes before the ZBA for a ruling. This procedure will ensure that the voting Members monitor their circumstances for

⁶ Pursuant to the Ethics Act, Cook County supervisors and managers have a statutory obligation to file a statement of economic interest with the Clerk's Office, listing any financial interest they have with units of government.

⁷ Individuals who provide professional services related to real estate in a capacity as an attorney, consultant, developer, etc.

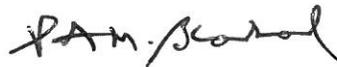
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any potential, apparent or actual conflict of interest related to financial interests and personal relationships. Additionally, this method of disclosure will foster an avenue enabling the Cook County Board of Ethics with an opportunity to review the facts and institute preventive measures including recusal of Members, to avoid any conflicts from having a bearing on the ZBA's rulings. (See Attachment A, Association of Certified Fraud Examiners, Detecting and Deterring Conflicts of Interest, Sample Disclosure Form).

- We also recommend that the ZBA adopt procedures to both guide its Members in recognizing a potential, apparent or actual conflict and to addressing such circumstances when they arise.
- Finally, we recommend that the procedures promulgated by the ZBA include a provision to alert the Board of Ethics when a sitting Members is also an elected official. In this way, the Board of Ethics could add these individuals to its routine D2 audits.

Finally, in accordance with Section 2-285(e) of the OIIG Ordinance, this Office respectfully requests notification within 30 days of any action taken in response to the foregoing recommendations. Thank you for your cooperation and assistance with this matter. Please do not hesitate to contact me if you have questions.

Very truly yours,



Patrick M. Blanchard
Inspector General

attch.

cc: Mr. Brian Hamer, Chief of Staff, Office of the President
Ms. Laura Lechowicz Felicione, Special Legal Counsel to the President
Mr. James Wilson, Secretary to the Zoning Board of Appeals
Mr. Ranjit Hakim, Executive Director, Ethics Department

CONFLICT-OF-INTEREST POLICY Disclosure Statement

Procedure:

Full disclosure of all material conflicts of interest must be made to the supervisor as soon as reasonably practical. Please refer to the conflict-of-interest policy for further information on which conflicts require disclosure.

1. Complete the Disclosure Statement and submit it to the Board of Ethics as soon as possible.
2. Please refrain from participating in the decision-making process related to the matter in question until the Board of Ethics communicates their ruling to you.
3. A copy of the completed Disclosure Statement and Board of Ethics ruling will be forwarded to the Secretary of the Zoning Appeals Board for confidential filing.

Employee Information:

Name of Employee: _____
Position: _____
Work Phone: _____
Work Email Address: _____

Type of Conflict:

The conflict of interest has been identified as a(n) *(please check the appropriate boxes)*:

Actual conflict of interest
Apparent conflict of interest
Potential conflict of interest

Financial interest
Non-financial interest

Disclosure Statement:

Describe the nature of the conflict of interest.

Describe how the situation might affect or be seen to potentially affect your ability to carry out your professional responsibilities.

Explain how you propose to manage this conflict.

Declaration:

I hereby declare that the above details are correct to the best of my knowledge and I make this conflict-of-interest disclosure statement in good faith.

Signature of Person Disclosing Name of Person Disclosing (Please Print) Date

I hereby declare that I have received this disclosure statement on behalf of the Board of Ethics.

Signature Name (Please Print) Date