

Opinion of the City of Rochester Board of Ethics - 2016-1

March 7, 2016

Overview

On January 11, 2016, the Rochester City Council (“Council”) submitted a request (“Request”) for an advisory opinion from the Board of Ethics concerning a proposed contract between the City of Rochester (“City”) and Strategic Community Intervention LLC (“SCI”) for an independent analytical review of the City’s nuisance abatement program. SCI was selected and conditionally approved by the Council from two proposals submitted in response to a Request For Proposal (“RFP”) released by the City on September 29, 2015. The Request specifically inquired whether a conflict of interest or other violation of the Code of Ethics was present.

The Board of Ethics reviewed and discussed the Request and related information at its January 25, 2015 meeting. During the deliberations, the Board reviewed relevant portions of the Code of Ethics of the Municipal Code of the City of Rochester.

The authority of the Board of Ethics is defined in the City Charter, Section 2-18 F as follows:

(3) The Board of Ethics shall render written advisory opinions to City officers and employees with respect to the Code of Ethics and Article 18 of the General Municipal Law or amendments to either. Any relevant matter may be brought before the Board for an opinion upon the written request of any City officer or employee or upon the initiative of the Board...

The principal of SCI is William A. Johnson, Jr., a former mayor of the City during whose term of office the City’s nuisance abatement program was substantially revamped and given elevated enforcement status. Three other members of the Johnson administration who were significantly involved with the development of the City’s current nuisance abatement program are also involved with SCI.

Opinion

The sole focus of the Board of Ethics under the current Code of Ethics is to review and render advisory opinions on issues involving City officers and employees under the standards of conduct set forth in the Code of Ethics and New York General Municipal Law as currently in effect. The Board of Ethics cannot and does not have the authority to render opinions on ethical considerations outside of these existing regulatory provisions or whether the appearance of a conflict of interest might be present.

The Code of Ethics and New York State General Municipal Law apply almost exclusively to current City officers and employees. SCI and its owners and personnel are neither.

One section of the Ethics Code does refer to former City officers and employees:

2-18 B (12) No former City officer or employee shall at any time after he or she leaves the agency he or she served represent a person before any agency on a specific matter with which he or she was directly involved or of which he or she has special knowledge, if the representation would be adverse to the position of the City on the matter. The Corporation Counsel may seek an injunction to enforce the provisions of this subsection.

This section is not applicable to the proposed SCI contract since SCI would be representing the City rather than a third party.

It is therefore the opinion of the Board of Ethics that nothing in the Code of Ethics or General Municipal Law precludes the City from entering into a consulting arrangement with SCI despite the company's ownership and operation by former City officers and employees.

The Board's role is limited as noted above and our mandate does not extend to serving as a sounding board or review panel on the merits of City contracts. We therefore do not render any opinion on the wisdom of the proposed contract or the abilities of SCI to objectively perform the requirements of the RFP.

No provisions of the Code of Ethics or New York State General Municipal Law restrict the selection of SCI under the RFP.

(Steinbrenner, Antonevich, Lindley, Lee, Maneiro, Scott, Weir)