

COMMUNITY BOARD NO. 8 BRONX

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ETHICAL GUIDANCE

A MANUAL FOR MEMBERS OF COMMUNITY BOARD NO. 8 BRONX

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Serving the neighborhoods of Fieldston, Kingsbridge, Kingsbridge Heights,
Marble Hill, Riverdale, Spuyten Duyvil, and Van Cortlandt Village

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Foreword and Introduction

“Community board members are chosen because of their professional involvement with, and commitment to, the communities in which they live and work.” *

*It is recognized that, by virtue of such interests and qualifications, they have personal interests and private or official associations. It is the purpose of the New York City ethical codes, presented in many ways, to ensure the integrity and impartiality of Board decisions. Thus, members are instructed and assigned in their service to avoid personal gain or advantage.” (Community Boards by General Counsel, Conflict of Interest Board)

Our community is best served by the sincere and active involvement of Board members. The highest ethical imperative is met by attendance, participation and voting. In this way, members may achieve improvement in the quality of life for the neighborhoods served by the Bronx Community Board NO. 8 and for all New Yorkers.

Beyond adherence to the formal rules, members are expected to treat with dignity and respect all the members of the Board and members of the public whom we serve.

This manual is intended as long-term reference for members of Bronx Community Board No. 8 to aid them in affording proper and effective service. Generally, few issues arise but, for guidance, the basis and experience of local boards and the specifics of the Board’s Bylaws are provided. The major source is the Conflicts of Interest Board (COIB), responsible for issuing opinions and for advising community boards and the public.

Bronx Community Board No. 8 also has a website at www.nyc.gov/bronxcb8. The Board’s site provides resource information; committee agendas and minutes, board reports, data relevant to the district’s planning initiatives, district statistical profiles, community health profiles and conflict of interest information.

The completion of this project could not have occurred without the hard work of the Board office and its staff: Nicole Stent, District Manager and Pat Manning, Community Associate. In addition, great appreciation to Wayne G. Hawley, General Counsel, Conflicts of Interest Board who reviewed this document and to those Board members that provided comments.

This is a work in progress. As new issues come before us, especially in our rich and varied communities, new and current responses will be needed. This is a start.

Irving Ladimer,
Board member

Part I

General Conditions

In service to City and community, members of Community Boards (CB) are expected to observe generally accepted ethical principles, notably avoidance of conflict of interest or advantage of position.

It is known that members would have personal, family, work or social interests and associations that may affect their views or conduct in Board considerations. Accordingly, rules and opinions from several sources are available to instruct and govern member participation. The purpose of these restrictions is to acknowledge private concerns while preserving the integrity of the Board and its processes.

Part II

Authorities and Sources

1. Primarily, the New York City Charter includes a chapter on Ethics (Ch. 68) creating the current Conflicts of Interest Board (COIB) to promulgate rules, provide education and issue advisory opinions. The Charter contains specific provisions relating to official conduct of Community Board members, many subject to COIB interpretation. These apply to Board staff and to appointed Board members but not to “public members” who volunteer on committees, as they are not deemed “public servants” under the Charter.
2. The Conflicts of Interest Board (COIB) is the principal agency monitoring and advising Boards generally on ethical issues or specifically in answer to a Board inquiry. The COIB may also enforce requirements and impose fines or other penalties, after a hearing.

The COIB has a wide range of responsibilities and issues advisory opinions (not judicial orders) on topics concerning Board operations, committee service and financing of Board activity, but mainly responses to private versus public interests. Part III (below) summarizes a

number of opinions of special interest to Bronx Community Board No. 8 (CB8) such as zoning, representation of charitable and non-profit groups, public employment and business ventures.

3. Bylaws of Bronx Community Board No. 8. This is the governing instrument of the Board. It governs the internal management and outlines the responsibilities and powers of the Board. It defines rules for officers, meetings, voting, standing committees and the authorization for special committees, public hearings, gallery sessions, public relations, district manager and the board office and amendments. The bylaws are available on the Board's website at: www.nyc.gov/bronxcb8 under the category About CB8.

The Board uses parliamentary procedures based on Robert's Rules of Order to conduct meetings in the tradition of public democracy. The Mayor's Community Assistance Unit has written *A Guide to Parliamentary Procedures for New York City Community Boards*. The parliamentary procedures are available on the Board's website at www.nyc.gov/bronxcb8 under the category About CB8, Member Resources.

4. Law, Rules & Ethics Committee. The Committee is a regular standing committee of the Board. By special provision, the membership of the Committee "shall consist of those appointed Board Members who are attorneys at law and other interested appointed Board Members. When an issue arises requiring an ethics opinion, an ad hoc ethics committee can be formed with the Board Chairperson appointing two (2) officers of the Board; and the Chairperson of the Law Committee appointing a Law Committee member as counsel/voting member". (Bylaws, Article Section 7, D)

The jurisdiction of the Committee is limited to issues and matters within the scope of Board powers and functions and does not extend to subjects of interest to the community district unless properly presented and acknowledged by the Board.

The Committee is available on an open or confidential basis, for information or advice to any appointed Board member, or any community committee member upon approval of the chair.

The Committee is obliged to inform the Board of official reports, decisions and advice provided for guidance of Community Boards. The Committee maintains a reference file of such information for the benefit of Board and community members.

5. Your Community Board. This brochure, issued by the Mayor's Community Affairs Unit, outlines the functions, powers and operations of local Boards. It is available on the Board website at: www.nyc.gov/bronxcb8 under the category About CB8.
6. The 2008 Handbook for Community Board Members was originally prepared by the Community Board Assistance Unit of the Mayor's Office. It has is a reference guide for community board members and includes the *Appendix E. Conflicts of Interests*. The Hand book is available on the Board's website at: www.nyc.gov/bronxcb8, under the category About CB8, Member Resources

Part III

Opinions of the Conflicts of Interest Board

The Conflicts of Interest Board (COIB) issues and compiles opinions, published periodically; also in City Law, the journal of the Center for New York City Law; in occasional bulletins and brochures. Separates are available. A City Law monograph "Conflicts of Interest Under the New York City Charter" contains a chapter on Community Boards. By illustration, two pamphlets "Conflicts of Interest: What Every Community Board Member Should Know" (1996) and "Conflicts of Interest Law and Community Boards" (1999) are appended to this manual.

Ethics seminars open to the public are held by the COIB and the Center for New York City Law. Meetings and conferences are announced in publications of the Center for New York City Law (New York Law School) and COIB office. Visit COIB at: <http://nyc.gov/ethics>

The purpose of the Charter (law) is to ensure that Board members, as public servants, do not use or appear to use their positions for their own interests. Recognizing their private interests, COIB opinions permit discussion and participation on proper disclosure or recusal, if indicated, and

appropriate voting. These are determined by balancing the nature and extent of possible personal gain or influence against the importance of the subject at issue.

Some typical opinions are provided:

1. Zoning - Board member homeowners may vote on rezoning when not individually or directly involved. Nine members of Community Board 7 (Queens) asked COIB if they could vote on a proposal for rezoning an area in which they lived. Voting would not violate conflicts of interest laws as long as members disclose, in advance, any economic interests to their Board. The Board members were homeowners, not investors with business interests and the rezoning involved a vast area with 8000 properties. Board members could not individually benefit. (Opinion No. 2005-3, 11/7/05)
2. Senior Facility - A Board member had an interest in a corporation planning to build an assisted living facility on five lots in the community. The member did not refrain from voting on the proposal. COIB ruled that by voting, he violated the Ethics provision of the Charter since his vote could result in a direct economic gain to him. (Opinion No. 99-157, 2001)
3. Liquor Facility - A Board member who owned a liquor shop may be permitted to vote on liquor licensing of another, possibly competing, facility because any advantage would be speculative and any effect on the member's facility would be indirect. (Opinion No. 2003-2, 2003). A further Opinion stated that a Board member who had an interest in a liquor facility could not serve as Chair of the Committee responsible for considering liquor license applications, i.e.; Public Safety Committee. (Opinion No. 2003-2)
4. Private Interests - A Board member may Chair a Committee unlikely to consider issues concerning the member's private interests. If they arise, the member may not participate in discussions. Relevant information must be disclosed.
5. Budget Priorities - Board members may vote on budget priorities that may affect developments in which they have an interest, provided such votes do not result in personal and direct economic gain. (Opinion No. 93-3)

6. Compliance with City Charter - Appointed members may not use their positions for personal advantage or for any business or organization with which they are associated. Generally, they are subject to the same restrictions imposed on public servants but are afforded the special Charter provision for community boards, mainly regarding conflicts of interest.

Part IV

Related Issues of Interest to Board

Related issues, indirectly affecting Board members, are noted.

1. Representation. A Board member may not issue a public statement to media or otherwise without prior approval by the Board Chair and may not sign as a Board member or permit such inference unless authorized.
2. Honoraria. A Board member may not accept an honorarium or expense fee for speaking or working for an organization when it may reasonably be inferred that the member might receive favorable treatment.
3. Political Activity. A Board member may be involved in political activity and run for public office while continuing to serve on the Board. However, pursuant to Section 1115 of the City Charter, which prohibits individuals from holding more than one civil office, a Community Board member would have to resign from the Board upon assuming elective office. Fundraising must be undertaken separately and without reference to Community Board membership.
4. Board Appointments. Appointments to a Community Board are within the discretion of the Borough President on the basis of applications, recommendations and nominations from local City Council members. Appointments are not subject to reconsideration or appeal.
5. Board Fundraising. Boards may authorize soliciting of donations or contributions but not from individuals or firms with matters pending before the Board and, as appropriate, within the City's bidding process. The Board may solicit or accept funds to support a public service project,

such as a community survey, but with disclosure of any possible involvement leading to conflict of interest and must provide findings and recommendations on the basis of fair dealing.

6. Gifts. The Board may, after appropriate approval, accept unsolicited gifts on the condition that the donor, private or non profit, is not afforded any advantage or preference or be a party to a pending issue.
7. Member Request. A Board member for self or others is entitled, as a private citizen, to apply to a Committee for consideration of a neighborhood matter, such as parking or housing. Membership does not, of itself, imply preference or the appearance of special interest. The member is equally entitled to the resources of public authorities, including the Board. There is no personal economic gain for the member.
8. Professional Representation. Board members associated with professional firms such as law, health, accounting, engineering, architecture, urban planning and similar entities, may not personally represent a private client before the Board and cannot vote on any matter involving the client's interest. However, the firm may be able to obtain a waiver from COIB for presentation by a partner or colleague.
9. Supplier to Board. A Board member may not serve as a supplier or vendor to the Board or engage in business dealings. An exception may be made for special purchases, upon disclosure and approval.
10. Financial Disclosure. Information presented by a member at the time of appointment is deemed sufficient by the Board. A proposal by a new York City Council Member, submitted to all Boards, for full financial disclosure similar to that for City employees, was deemed not necessary and also inappropriate for members with only advisory authority.
11. Waivers for Members. Employees of contractors for the City may serve as "public members" or Board members. They are unpaid volunteers who evaluate or review programs and take part in public hearings. They have no executive or administrative responsibility for the employer. To serve as members they may obtain waivers from COIB and recuse themselves

from any negotiations involving their employer or gain status from their employer. (Opinion No. 2006-01, 01/18/06)

12. Voting. A Board member that is not entitled to vote on a particular issue due to a conflict of interest may be counted present for a quorum. For vote tabulation, the member should be marked “present but not entitled to vote” rather than “abstaining for cause.”
13. Ex Officio Member. An ex officio Board member may participate in discussion and express opinions, but is not entitled to vote. CB8 has three (3) ex-officio members from City Council Districts 10, 11, and 14.

Part V

Community Board Administration

1. Nominating Committee

In addition to the Bylaws, which specify the structure and duties of the committee, the following procedures are to be followed pursuant to resolutions adopted by the community board on February 14, 2012 and November 13, 2012.

- (a) Officers: A member of the nominating committee may not be nominated by the committee for a position of officer.
- (b) Committee Chairs: A member of the Nominating Committee under consideration for a committee chair shall recuse him/herself from discussion and vote for that position.
- (c) In the event of a tie vote in the Nominating Committee, both candidates shall be presented to the Board.
- (d) The Nominating Committee must complete its activities and present its slates at least two calendar weeks before the June meeting at which the election will take place.
- (e) When the nominating committee is elected, there will be a statement that all officer and chair positions are to be considered open and available for nominations.

(f) Within five (5) business days of the formation of the nominating committee, each current chair or officer shall notify such committee of his or her intention not to be considered for renomination. The nominating committee will then notify all board members of such position(s) within 24 hours of such notification.

Part VI

Procedure Requesting a Ruling

A Board member may request a ruling on entitlement to participate or vote on a particular issue at any time, before or during a Board or Committee meeting. Board members should first refer any ethical issue to the Committee on Law, Rule & Ethics for appropriate local decision or proper referral to COIB. Depending on circumstances and available information, the Chair of the Board or Committee may render a ruling or refer to the Law, Rules and Ethics Committee. A ruling by a Board or Committee Chair may be appealed.

An action by a Board member intending to participate or vote may be challenged by another Board member. A challenge by a member may be decided by the Chairperson of the Board, unless the matter may present a possible conflict of interest to the Chairperson. Otherwise, the matter must be referred to the Committee on Law, Rules & Ethics. A ruling by a Chair may be appealed.

An abstention by a Board member for possible conflict of interest may be questioned or challenged by any Board member to assure sufficient participation and necessary vote. The issue may be referred to the Committee on Law, Rules and Ethics for a ruling on the challenge and for mediation, if appropriate.

Information which may be relevant to a conflict-of-interest determination should not be withheld by any member. Disclosure of pertinent facts reflects the integrity and effectiveness of the Board for members and public.

Board members should first refer any ethical issues to the Committee on Law, Rule and Ethics for appropriate local decision and for proper referral to the COIB.

END

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