

Blind Trust
Ownership Interests
Not-for-Profit Organizations
Charter Sections 2604(a)(1)(b)
2604(b)(2), (3), (4)
2604(c)(6)

Advisory Opinion No. 94-25

A high-level public servant has requested an opinion from the Conflicts of Interest Board (the "Board") as to whether a blind trust established on his behalf complies with the Board's blind trust rule, Board Rules § 1-05 (the "Rule" or the "Blind Trust Rule"), and, in addition, whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, he may own and rent out four apartment units and engage in certain volunteer activity. For the reasons discussed below, it is the opinion of the Board that the blind trust agreement complies with the Blind Trust Rule. It is also the opinion of the Board that the public servant's ownership and rental of the apartment units and participation in the volunteer activity would not violate Chapter 68.

Blind Trust Agreement

Charter § 2604(a)(1)(b) provides that no regular employee of the City shall have an interest in a firm which the employee knows is engaged in business dealings with the City. An "interest" in a firm may be either a position with the firm or an ownership interest in the firm. Charter § 2601(12). However, the Charter's definition of "ownership interest" excludes an interest in a blind trust that holds an otherwise prohibited ownership interest and that meets the requirements of the Board's Blind Trust Rule. See Charter §§ 2601(6) and (16).

The Blind Trust Rule, Board Rules § 1-05, sets forth the requirements for the establishment of blind trust instruments, including the qualifications of the trustees and the contents of the instrument. The Board's review of the blind trust agreement here at issue, in light of those requirements, reveals that the agreement complies with the provisions of the Board's Blind Trust Rule. See Advisory Opinion No. 94-18, in which, pursuant to the Blind Trust Rule, the Board reviewed and approved the use of a blind trust to hold various investments of a high-level public servant.

Owning and Renting Apartment Units

The public servant owns four cooperative apartment units in three separate buildings, which units he rents out. The management company for each building collects the rent for the units, which are rent stabilized. The public servant does not sit on the board of any of these cooperative corporations. Furthermore, neither his City agency nor his City duties would place him in a position to make any decisions affecting the cooperatives.

The Board has concluded, under the particular facts of this case, that the public servant, in his ownership of the cooperative units, is uninvolved in the governance and operation of the buildings. The public servant may therefore continue to own and rent the units. The Board has based its determination on the facts set out above: that the public servant owns only four rental units in three separate buildings; does not serve on the boards of the cooperatives; does not collect the rent; and, as a public servant would not be involved in any decisions relating to the cooperative corporations. However, since the Board's conclusion permitting the ownership and rental of the

cooperative units is based on these underlying facts, the public servant should contact the Board if any of these facts change.

Volunteer Activity

The public servant serves on the board of directors of a not-for-profit organization on Long Island that focuses on environmental issues in that area and that has no business dealings with the City. He receives no compensation for his services on the board.

Under the Charter, the public servant may serve on the board of directors of a not-for-profit organization which does not engage in business dealings with the City, provided that he works for the organization at times when he is not required to perform services for the City; he does not use his official City position or City resources to obtain a private advantage for himself or the organization; and he does not disclose or use for private advantage any confidential information concerning the City. See Charter §§ 2604(b)(2), (3), and (4), respectively.

If, in the future, the organization becomes interested in business dealings with the City, then the public servant should contact the Board for further guidance. See Charter Section 2604(c)(6), which provides the conditions pursuant to which a public servant may serve on the board of directors of a not-for-profit organization which is interested in business dealings with the City.

Conclusion

For the reasons stated above, it is the Board's opinion that the provisions of the blind trust agreement comply with Board Rules § 1-05. It is also the opinion of the Board that it would not violate Chapter 68 for the public servant to continue to own and rent out the four cooperative apartments and to serve on the board of directors of the not-for-profit organization.

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