

Agency Served By Public Servant  
Charter Sections 2604(a)(1)(a)  
2604(b)(6) and (7)  
2604(d)(2)

Advisory Opinion No. 95-8

The Conflicts of Interest Board (the "Board") has received a request for an opinion as to whether, for the purposes of the conflicts of interest provisions of Chapter 68 of the City Charter, part-time Parking Violations Bureau ("PVB") Administrative Law Judges ("ALJ's") are considered employees of the Department of Finance ("DOF") and, if so, whether they are prohibited from being involved in their private practices with matters concerning DOF, in light of the fact that the PVB has been consolidated into DOF.

For the reasons discussed below, the Board has determined that, for the purposes of Chapter 68, the agency served by PVB employees is DOF.

Background

Prior to July 1, 1994, the PVB was considered part of the Department of Transportation ("DOT"). As of July 1, 1994, the PVB was consolidated into DOF. Most of the PVB ALJ's are per diem hearing officers who work on a part-time basis. Since many of the PVB ALJ's engage in the private practice of law, they have asked

for clarification from the Board as to whether the agency they serve for purposes of Chapter 68 is now DOF.

Discussion

In Advisory Opinion No. 93-10 (Revised), the Board considered whether or not PVB ALJ's are public servants for the purposes of Chapter 68 and concluded, among other things, that PVB ALJ's are "public servants" as that term is defined in Charter Section 2601(19). In addition, the Board determined that those PVB ALJ's who are regularly scheduled to work more than 20 hours per week are "regular employees" of the City.

Although revised Advisory Opinion No. 93-10 did not specifically discuss which agency the PVB ALJ's served for the purposes of Chapter 68, the Board recognized in the opinion that DOT was the agency served by PVB ALJ's. The Board thus concluded, with respect to those PVB ALJ's who are not regular employees of the City, that "they are prohibited from performing private legal work for any person or firm which has business dealings with their agency, Transportation; from representing private interests, for compensation, before Transportation, or appearing

directly or indirectly before Transportation on behalf of private interests in matters involving the City; and from appearing as counsel against the interests of the City in any action in which Transportation is a party."

See Charter Sections 2604(a)(1)(a), (b)(6) and (b)(7), respectively. The Board further determined that, pursuant to Charter Section 2604(d)(2), all former PVB ALJ's were prohibited from appearing before DOT for one year after the termination of their PVB service.

With the exception of the consolidation of the PVB into DOF, the structure and operations of the PVB have not changed since revised Advisory Opinion No. 93-10 was issued. Accordingly, since the Board recognized in that opinion that the agency which the PVB ALJ's served was DOT, and since there have been no other significant changes in the affected employees' status other than the administrative transfer of the PVB from one City agency to another, the Board has determined that the agency served by PVB employees for the purposes of Chapter 68 is now DOF. All other aspects of revised Advisory Opinion No. 93-10 concerning the non-City activities of all PVB employees remain in effect.

Conclusion

For the reasons stated above, the Board has determined that, for the purposes of Chapter 68, the agency served by PVB ALJ's is DOF. Thus, these public servants are required to continue acting in accordance with Charter Sections 2604(a)(1)(a), (b)(6), (b)(7), (d)(2) and any other relevant Charter Sections discussed in revised Advisory Opinion No. 93-10.

Sheldon Oliensis  
Chair

Jane W. Parver

Benito Romano

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Dated: April 10, 1995