

Contributions to Community Boards  
Fundraising by Community Boards

Charter Sections 2604(b)(1)(b)  
(b)(2)  
(b)(3)

Advisory Opinion No. 95-27

The Conflicts of Interest Board (the "Board") has received a request for an opinion from the district manager of a community board (the "Community Board") as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, the members and staff of the Community Board may accept donations on behalf of the Community Board and hold fundraising events to support the Community Board's programs and initiatives. Specifically, the district manager has asked whether: (i) the Community Board may accept grants from private foundations; (ii) the Community Board may accept monetary contributions from individual Community Board members, community-based organizations, and individual residents; (iii) the Community Board may accept donations of supplies from Community Board members, community-based organizations

and individual residents; and (iv) Community Board members or staff may hold fundraising events on behalf of the Community Board during official working hours or at other times.

It is the opinion of the Board, for the reasons stated below, that the Community Board members and staff may solicit and accept contributions to the Community Board and generally engage in fundraising on behalf of the Community Board, provided they act in accordance with the conditions specified in this opinion.

#### Background

The district manager has advised the Board that the Community Board, like many other community boards throughout the City, is faced with severe budget reductions which will have a significant impact on its ability to serve the community. The services which the Community Board provides to the community include, among others: assisting City agencies in communicating with the people in its district; preparing detailed plans for the district; developing priorities for how funds should be allocated; reviewing proposals for the

use or development of land located in the district; and rating the delivery of local services, which include fire, sanitation, police and transportation.

As a result of the budget reductions, the Community Board is seeking private sources of funding for its programs and initiatives, and it has asked the Board for guidance as to how to conduct this fundraising program in a manner consistent with Chapter 68.

#### Discussion

As the Board has stated in its Advisory Opinion No. 92-21:

In general, it is the opinion of the Board that the City is well served by contributions from the public which aid the City's efforts to meet the needs of its citizens. Philanthropy which takes the form of donations to the City should be encouraged. This is especially true now when the City is under severe financial constraints.

The Board also observed in that opinion, however, that the City's receipt of contributions is not free from ethical problems.

Community boards are unique among City agencies. Their memberships consist of individuals who are residents or individual representatives from organizations and businesses which are located within

the particular districts which the community boards serve. That is, members of community boards frequently sit on such boards as a direct result of their private interests. When a public servant's public duties stem from his or her private interests, special care must be taken to avoid potential conflicts of interest. Indeed, no community board member may vote on any matter which may result in a personal and direct economic gain to the member or any person with whom the member is associated. See Charter Section 2604(b)(1)(b).

It is, therefore, in light of the special nature of community boards, that the Board addresses herein each of the district manager's specific inquiries.

#### Grants From Private Foundations

In Advisory Opinion No. 92-21, the Board determined that City agencies may, under certain circumstances, solicit and accept gifts from private donors. These factors include, among other things, whether the potential donor has any matters or is likely to have any matters pending before the recipient City agency. The Board stated that, if so, City

agencies should inform such potential donors in their solicitation that any gifts will not affect the

decision-making process or serve as a quid pro quo in securing favorable determinations from these agencies.

Furthermore, with respect to community boards engaging in fundraising, the Board, in its Advisory Opinion No. 92-27, determined that a community board could solicit funds to hire a consultant to work on one of the community board's projects. Such solicitations could, however, only be made to individuals and organizations which did not have any matters pending before the community board, or which had no matters where the Community Board's involvement was imminent. This condition was deemed critical, in order to avoid the prospect of a contribution's being used as an inducement for, or as a form of pressure to secure, official action in favor of a donor.

In light of the opinions discussed above, it is thus the opinion of the Board that, with respect to the Community Board's solicitation and acceptance of grants and other donations from private foundations, such actions are consistent with Chapter 68, provided that the Community Board members and staff do not solicit

contributions or otherwise accept donations of money or supplies from those foundations (or from firms, organizations or individual residents) which have matters pending before the Community Board, or which have matters where the Community Board's involvement is imminent. Also, all potential contributors must be informed that any donations would not affect the contributors' dealings with the Community Board or serve as a quid pro quo in securing favorable treatment from the Community Board, in the event the contributors have matters before the Community Board in the future. See Advisory Opinion No. 92-21.

Contributions of Money and Supplies from Community Board Members, Other Individuals and Community-Based Organizations

For the reasons stated above, the Community Board may also accept contributions of money and supplies from Community Board members, other individuals and community-based organizations, provided that anyone acting on behalf of the Community Board acts in accordance with the conditions discussed in this opinion.

These conditions apply not only to community-based organizations and individuals, but also to members of the Community Board who personally have matters pending before the Community Board or who have interests in firms which have matters pending before the Community Board.<sup>1</sup> As noted above, community board members may have such interests, but may not vote on any matter which may result in a personal and direct economic gain. See Charter Section 2604(b)(1)(b). By the same token, community board members may not take any action -- which includes contributing to their community boards at a time when they have matters pending before the boards or when they expect to have matters before their boards -- which could cause the appearance that the community board members were using their positions as public servants to obtain any financial gains or other private or personal advantages, direct or indirect, for the community board members or any persons or firms associated with them. See Charter Section 2604(b)(3).

Thus, it is the opinion of the Board that the

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<sup>1</sup> "Interest" means an ownership interest in a firm or a position with a firm. See Charter Section 2601(12).

Community Board may accept contributions of money and supplies from Community Board members who personally have no matters pending before the Community Board or

matters where the Community Board's involvement is imminent, from Community Board members whose firms have no such matters, and from other community-based organizations and individuals, provided that the conditions discussed in this opinion are observed and that no potential contributor is caused to make a contribution by the expectation of favorable treatment in return for his or her contribution, which could cause the appearance of a conflict of interest.

Fundraising Activities by Community Board Members and Staff on behalf of the Community Board

The Board has addressed fundraising activities by public servants in several of its advisory opinions, most notably in Advisory Opinion Nos. 91-10 and 93-15, which offered guidance to various City officials and employees as to how to conduct themselves while engaging in fundraising activities on behalf of not-for-profit organizations.

In fundraising situations, the Board has advised City officials and employees that their solicitations should be free of any implication that the officials and employees would obtain any direct or indirect

personal benefit and should not otherwise create a perception that their City offices are being misused as "a lure or pressure." See Advisory Opinion No. 91-10. See also Charter Section 2604(b)(2), which provides that no public servant shall have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

In Advisory Opinion No. 93-15, the Board stated that the principal concern in fundraising situations "is whether or not a public servant's actions would create an appearance that he or she is using the power of public office to pressure others into contributing, taking official action on the basis of whether or not a contribution has been made, or allowing contributors to have access to City government in a manner not enjoyed by the general public."

For the reasons stated in this section and

elsewhere in this opinion, it is the Board's opinion that members and staff of the Community Board may, consistent with Chapter 68, engage in fundraising on behalf of the Community Board, provided that they do not target individuals, firms or other organizations which have matters pending before the Community Board or which have matters where the Community Board's involvement is imminent, or which are otherwise likely to perceive a fundraising appeal as a promise of special treatment in return for a contribution.

The fundraising at issue in this opinion differs from the kind of fundraising discussed in Advisory Opinion Nos. 91-10 and 93-15 because the fundraising activities here are being conducted on behalf of the Community Board rather than a non-City entity. Since the fundraising activities here are in furtherance of the Community Board's and the City's interests, this work is consistent with the Community Board members' and staff's official duties. Thus, board members and staff may perform this work on City time, and they may use City equipment and resources to perform this work.<sup>2</sup>

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<sup>2</sup> If the board members and staff were engaged in fundraising activities on behalf of non-City entities, they would be required to perform this work only at times when they were not required to perform services for the City, and they would be prohibited from using

Conclusion

It is the Board's opinion, for the reasons discussed above, that members and staff of the Community Board may solicit and accept contributions of money or supplies, hold fundraising events, or make contributions themselves, in order to generally support the Community Board's programs and initiatives, provided that they do not solicit or accept contributions from individuals, businesses or organizations which have matters pending before the Community Board, or which have matters where the Community Board's involvement is imminent. In addition, all potential contributors should be informed that contributions will not affect any possible future dealings with the Community Board or serve as a quid pro quo in securing favorable treatment from the Community Board.

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Chair

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City equipment and other City resources. See Charter Sections 2604(b)(2) and (3), respectively.

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