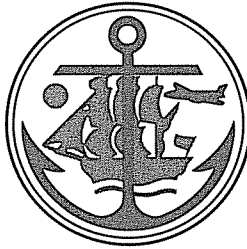


Municipality of Anchorage



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BOARD OF ETHICS

February 12, 2008

Allan Tesche
1032 G Street
Anchorage, Alaska 99501

Re: Request for Advisory Opinion

Dear Assemblymember Tesche:

This letter responds to your request for an advisory opinion dated February 8, 2008. (A copy of your request, and its enclosures, is attached.) The Board of Ethics convened a special meeting to discuss your request on February 12, 2008. It appreciates your willingness to appear before the Board and to respond to its Members' questions.

Your request included a copy of a letter written by Carol Hartman on behalf of Fantasies on 5th and Club Elixir, addressed to Anchorage Assembly Chairman Dan Coffey. In the letter, Ms. Hartman suggests that your conduct may have violated provisions of the Ethics Code and that "immediate action [should] be taken to officially remove [you] from taking part in the Assembly discussion, questioning, voting, or any other matter regarding AR 2008-1."

You have asked the Board to issue an advisory opinion regarding "the extent to which [the Board] is empowered to grant the relief requested by Ms. Hartman of Chair Coffey."

The Board of Ethics is authorized by Ordinance to offer advice regarding "the applicability and interpretation of [the Municipality's Code of Ethics] in a particular situation":

A current or former employee, current or former appointed member of any municipal authority, current or former elected official, or current candidate for municipal office or employment may request written advice regarding the applicability and interpretation of this chapter in a particular situation involving the inquirer.¹

¹ AO 1.15.080(A) *Advisory opinions* (emphasis added).

In your appearance before the Board, you were asked whether you would like the Board to render an advisory opinion that assumes the facts alleged in Ms. Hartman's letter to be true. You informed Members that the Board should not assume that the facts are as Ms. Hartman's letter describes.

The Board has consequently determined that it is unable to issue an advisory opinion in response to your request. The Board's ability to issue meaningful opinions – upon which an inquirer is entitled to rely² – depends on its being presented with a sufficiently "particular" factual "situation." If the Board is not to assume that the allegations set out in Ms. Hartman's letter are true, it has not been presented with a sufficient set of facts upon which it may render an advisory opinion.

Please let me know if you believe that the Board is required to take additional action in this matter.

Sincerely,



Chair
Board of Ethics

² See *id.* at (A)(2):

In any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board, and may not be sanctioned for acting in compliance with the board's advice, so long as the facts remain substantially unchanged from those represented to the board in the inquiry.

(emphasis added).