



Agenda Cover Memorandum

Meeting Date: April 17, 2017

Meeting Type: COW (Committee of the Whole) City Council Budget Workshop

Item Title: Shall the four (4) Ethics Complaints filed by Eugene Plaza be forwarded to an Independent Reviewer?

Action Requested: Approval For Discussion Feedback Requested For Your Information

Staff Contact: Julie Tappendorf Phone #: 312-604-9182 Email: jtappendorf@ancelglink.com

Background:

Between March 10 and March 17, 2017, Eugene J. Plaza of 2701 Mayfield Drive, Park Ridge, Illinois, filed four Official City of Park Ridge Ethics Complaint Forms ("**Ethics Complaints**") with the City Clerk's office against John Sclafani, Howard Coppari, Jim Brown and Marty Maloney. All of the complaints arise from the City's application and enforcement of the zoning code to permit a detached shed to be constructed in the rear yard of Mr. Plaza's neighbor. In essence, Mr. Plaza is dissatisfied with the outcome of the City's regulatory process.

The City has enacted ethics regulations in Chapter 5 of Title 2 of the City Code of Ordinances. These ethics regulations include the following: (1) disclosure statement filing requirements for City officials (2-5-2 and 2-5-4), (2) conflict of interest restrictions (2-5-3); (3) prohibited political activities (2-5-3H); and (4) gift ban regulations (2-5-6). In Section 2-5-8, a person can file an ethics complaint alleging a violation of the City's ethics regulations. The procedure for processing an ethics complaint is summarized below:

Step 1. Filing of Complaint. Ethics complaint is filed with City Clerk.

Step 2. City Clerk Receipt. City Clerk receives the complaint and records it in a complaint log. Within 7 days of the filing, the City Clerk forwards the complaint to the City Attorney.

Step 3. City Attorney Response. The City Attorney reviews the complaint, and within 21 days after receipt of the complaint from the City Clerk, issues a response to the complaint, which can take one of 2 forms:

- a. Response of "no violation." If the City Attorney finds that the complaint fails to set forth a violation of the City's ethics code or law, then the City Attorney forwards a response of "no violation" to the City Manager and Mayor.** (go to step 4.a).¹
- b. Response of "valid complaint." If the City Attorney finds the complaint valid, the City Attorney must forward a response of "valid complaint" to the City Manager. (go to step 6)

In these four cases, for the reasons described in the attached memoranda, the City Attorney has made a recommendation to find No Violation.

Step 4. City Manager/Mayor Review. Upon receipt of the City Attorney's response, the Manager and Mayor (or replacement where either is the subject of the complaint) must take the following action, depending on the nature of the response.

- a. If the Manager and Mayor (or replacement) agree with the City Attorney's response of "no violation," then the complaint, response, and other documentation is forwarded to the City Council for action at its next regular meeting (go to step 5).
- b. If the Manager and Mayor (or replacement) disagree with the City Attorney's response of "no violation," then the complaint moves forward to step 6.

In these four cases, the Manager and Mayor (or P&R Chair) have indicated agreement with the City Attorney's recommendation to find No Violation.

¹ **Note that if the complaint is filed against the Manager or Mayor, then the P&R Chair will replace the Manager or Mayor, as the case may be.



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Step 5. City Council Action. The City Council must schedule a vote on whether to move forward with the ethics complaint (notwithstanding the finding of “No Violation” by the City Attorney, Manager, and Mayor) at a City Council meeting. The vote is on the following: “Shall the Ethics Complaint filed on [date] be forwarded to an Independent Reviewer?” **If 4 aldermen are in favor of sending the complaint to an Independent Reviewer, then the process in step 6 applies. If the vote fails, then the complaint is closed.**

Step 6. Independent Reviewer Investigation. If a complaint is found valid under 3.b, 4.b, or 5 above, the City Manager must retain an independent reviewer. The independent reviewer is responsible for conducting an investigation and rendering a written decision within 45 days of the filing of the complaint. If the independent reviewer makes a finding of probable cause that a violation has been committed, then he or she will initiate further action which may include an administrative adjudication hearing or a circuit court complaint.

For all four of Mr. Plaza's Ethics Complaints, the City Attorney has recommended a finding of “No Violation,” with which the Manager and Mayor (or P&R Chair) has concurred. Hence, we are at Step 5 of the process.

Recommendation:

1. Shall the Ethics Complaint filed on March 10, 2017, by Eugene Plaza against Marty Maloney be forwarded to an Independent Reviewer
2. Shall the Ethics Complaint filed on March 13, 2017, by Eugene Plaza against John Sclafani be forwarded to an Independent Reviewer
3. Shall the Ethics Complaint filed on March 16, 2017, by Eugene Plaza against Howard Coppari be forwarded to an Independent Reviewer
4. Shall the Ethics Complaint filed on March 17, 2017, by Eugene Plaza against Jim Brown be forwarded to an Independent Reviewer

The motion should be presented in the affirmative, so that a “yes” vote is in favor of referral to an Independent Reviewer and a “no” vote represents concurrence with the recommendation of the City Attorney, City Manager and Mayor (or P&R Chair). The Council should act on each Ethics Complaint separately.

Attachment(s), if any:

- Responses to Ethics Complaint in Eugene J. Plaza vs. John Sclafani
- Responses to Ethics Complaint in Eugene J. Plaza vs. Howard Coppari
- Responses to Ethics Complaint in Eugene J. Plaza vs. James Brown
- Responses to Ethics Complaint in Eugene J. Plaza vs. Marty Maloney

MEMORANDUM

To: Joe Gilmore, Acting City Manager
Marc Mazzuca, Chair of P&R Committee

From: Julie A. Tappendorf, City Attorney

Subject: Response to Ethics Complaint in Eugene J. Plaza vs. Marty Maloney

Date: April 3, 2017

Confidential – Attorney/Client Privileged Communication

I. Background

On March 10, 2017, Eugene J. Plaza of 2701 Mayfield Drive, Park Ridge, Illinois, filed an “Official City of Park Ridge Ethics Complaint Form” (“*Ethics Complaint*”) with the City Clerk’s office against Acting Mayor Marty Maloney. The complaint form includes a number of attachments, including handwritten notes and communications between Mr. Plaza and various City employees regarding a building code matter. The substance of the complaint is that the City allowed the owners of 1700 Potter Road to construct a shed on their property in violation of zoning and building code regulations. Mr. Plaza also filed similar ethics complaints against CP&D employees Jim Brown, John Sclafani, and Howard Coppari.

II. Ethics Complaint Process

The City has enacted ethics regulations in Chapter 5 of Title 2 of the City Code of Ordinances. These ethics regulations include the following: (1) disclosure statement filing requirements for City officials (2-5-2 and 2-5-4), (2) conflict of interest restrictions (2-5-3); (3) prohibited political activities (2-5-3H); and (4) gift ban regulations (2-5-6).

In Section 2-5-8, a person can file an ethics complaint alleging a violation of the City’s ethics regulations. The procedure for processing an ethics complaint is summarized below:

Step 1. Filing of Complaint. Ethics complaint is filed with City Clerk.

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Step 3. City Attorney Response. The City Attorney reviews the complaint, and within 21 days after receipt of the complaint from the City Clerk, issues a response to the complaint, which can take one of 2 forms:

- a. Response of “no violation.” If the City Attorney finds that the complaint fails to set forth a violation of the City’s ethics code or law, then the City Attorney forwards a response of “no violation” to the City Manager and Mayor.** (go to step 4.a).
- b. Response of “valid complaint.” If the City Attorney finds the complaint valid, the City Attorney must forward a response of “valid complaint” to the City Manager. (go to step 6)

**Note that if the complaint is filed against the Manager or Mayor, then the P&R Chair will replace the Manager or Mayor, as the case may be.

Step 4. City Manager/Mayor Review. Upon receipt of the City Attorney’s response, the Manager and Mayor (or replacement where either is the subject of the complaint) must take the following action, depending on the nature of the response.

- a. If the Manager and Mayor (or replacement) agree with the City Attorney’s response of “no violation,” then the complaint, response, and other documentation is forwarded to the City Council for action at its next regular meeting (go to step 5).
- b. If the Manager and Mayor (or replacement) disagree with the City Attorney’s response of “no violation,” then the complaint moves forward to step 6.

Step 5. City Council Action. The City Council must schedule a vote on whether to move forward with the ethics complaint (notwithstanding the finding of “no violation” by the City Attorney, Manager, and Mayor) at a City Council meeting. The vote is on the following: “Shall the Ethics Complaint filed on [date] be forwarded to an Independent Reviewer?” If 4 aldermen are in favor of sending the complaint to an Independent Reviewer, then the process in step 6 applies. If the vote fails, then the complaint is closed.

Step 6. Independent Reviewer Investigation. If a complaint is found valid under 3.b, 4.b, or 5 above, the City Manager must retain an independent reviewer. That person must be a retired judge, prosecutor, or administrative adjudicator in Cook County. The independent reviewer is responsible for conducting an investigation and rendering a written decision within 45 days of the filing of the complaint. If the independent reviewer makes a finding of probable cause that a violation has been committed, then he or she will initiate further action which may include an administrative adjudication hearing or a circuit court complaint.

III. Summary of Complaint

Mr. Plaza filed the Ethics Complaint on the official City of Park Ridge complaint form.

In Section III of the complaint form, a complainant must specify the section or subsection of the City of Park Ridge Ethics Code or state or federal law that the complainant believes has been violated. The following is a summary of Mr. Plaza's response:

- (1) various provisions of the City's building code relating to permitting requirements;
- (2) the City's policies and procedures human resources personal conduct expectations;
- (3) various job descriptions for "occupation job inspector"; and
- (4) FLSA status job functions and job summary.

In Section V of the complaint form, the complainant must provide a detailed narrative description of the violation and/or conflict of interest. In response, Mr. Plaza stated as follows:

- "1) Time Frame – July 10, 2005 to present
- 2) Acting Mayor Maloney and City authorities ignored the safety of children and adults by allowing Michael & Jessica Stoja 1700 Potter Rd. to construct a shed structure in violation of the policies, rules, regulations and laws that govern zoning. Acting Mayor Maloney and authorities committed these violations knowingly, willfully with intent. - Non City interest is Commonwealth-Edison Utility Co. & Employees. - (conflict of interest)
- 3) See attached"

Mr. Plaza's complaint attached 140 pages of documents including correspondence between Mr. Plaza and City officials, photographs, excerpts from City regulations, and handwritten notes presumably written by Mr. Plaza. The documentation also includes copies of police reports filed against Mr. Plaza in what appears to be an ongoing neighbor dispute between the Stojas and Mr. Plaza, including allegations that he installed a surveillance camera to videotape and take pictures of the Stojas backyard, and that he threatened to report Mrs. Stoja to the IRS.

The attachments appear to document the construction by the Stojas (who live next door to Mr. Plaza) of a shed on their property. In these attachments, there are handwritten notes presumably made by Mr. Plaza that his neighbors constructed the shed without the required permit in 2015, and that he reported the conduct to City officials. These notes also claim that electrical wires were placed too close to the roof of the shed, and that he reported this to both the City and to ComEd. There is correspondence between City officials and ComEd about the electrical wires over the Stojas property, which apparently provide service to Mr. Plaza. His notes also allege that the City treated the Stojas preferentially because it required Mr. Plaza to take down his flower trellis but let the Stojas keep their shed.

The attachments also show that after being notified that they needed a building permit, the Stojas did apply for a building permit on July 24, 2015. The permit was approved on August 7, 2015. The initial inspection report failed because of the proximity of the ComEd wires to the roof of the shed. There were numerous communications between City officials, the Stojas, and ComEd to address the ComEd wire over the shed, which according to the documentation appears to provide electrical service to Mr. Plaza.

IV. Analysis of Allegations in Complaint

The Complaint centers on claims that the Stojas (next door neighbors of Mr. Plaza) violated the City's building code when they constructed a shed without a permit. Mr. Plaza's complaints about the shed have been investigated and followed-up over the past few years by a number of City officials, and involve numerous meetings and communications between City officials and Mr. Plaza, the Stojas, ComEd, and others. According to the documentation submitted by Mr. Plaza with his Complaint, the Stojas did apply for a permit for the shed in July of 2015, and the permit was issued in August of 2015.

According to discussions with CP&D staff and correspondence relating to this issue, the building code and permitting issues have since been resolved. The Stojas applied for and obtained a permit for the shed. The shed has been inspected, and was subsequently relocated outside of ComEd's easement. CP&D considers this complaint closed.

But, even if the building code or permitting issues were still pending and not yet resolved, these issues are not the proper subject of, or within the jurisdiction of, an ethics complaint. Instead, building code complaints are within the jurisdiction of CP&D, which department has the authority to process, investigate, and respond to complaints alleging building and zoning code violations. If a complainant is not satisfied with that response, he or she may have civil remedies against a neighboring property owner, including filing a private nuisance actions or a complaint under the Adjoining Landowner Act.

Although the documentation makes an allegation of a conflict of interest on the part of City officials or staff, the documentation contains no factual allegations in support of that claim. There are no factual allegations in support of any claim that Acting Mayor Maloney had a financial or personal interest in the Stojas construction of their shed, resolution of the ComEd wire relocation, or any of the other allegations made in the Ethics Complaint.

V. Finding of No Violation

The ethics complaint process is intended to address allegations that a City official or employee has violated some provision of Chapter 5 of Title 2 of the City Code of Ordinance (i.e., ethics provisions such as accepting an unlawful gift, engaging in prohibited political activities, or taking action on a matter where the official has a conflict of interest).

After reviewing the Ethics Complaint and the attached documentation, and analyzing the allegations and applying the City's ethics code and laws, it is my opinion that the Ethics Complaint fails to set forth adequate violations of the ethics code or laws. The allegations in the Ethics Complaint do not involve or even implicate any of the ethics regulations or laws that are within the jurisdiction of an ethics complaint procedure as authorized by section 2-5-8 of the City Code of Ordinances. Instead, the allegations center on Mr. Plaza's claim that the City failed to respond to his complaints about his neighbor's shed – issues that are outside the jurisdiction of an ethics complaint.

The City Attorney issues a finding of "No Violation" as to the Ethics Complaint.

Signed:



Julie A. Tappendorf, One of the City Attorneys

Dated: April 3, 2017

VI. Signatures of City Manager and P&R Committee Chair

Agree with City Attorney's Finding of No Violation

Disagree with City Attorney's Finding of No Violation

Signed: 
Acting City Manager

Signed: 
Chair, P&R Committee

Dated: April 10, 2017

Dated: April 10, 2017

Attachments:

1. Ethics Complaint Filed by Eugene J. Plaza, dated March 10, 2017, with attachments
2. City of Park Ridge Ethics Complaint Rules of Procedure

MEMORANDUM

To: Joe Gilmore, Acting City Manager
Marty Maloney, Mayor

From: Julie A. Tappendorf, City Attorney

Subject: Response to Ethics Complaint in Eugene J. Plaza vs. James A. Brown

Date: April 3, 2017

Confidential – Attorney/Client Privileged Communication

I. Background

On March 17, 2017, Eugene J. Plaza of 2701 Mayfield Drive, Park Ridge, Illinois, filed an “Official City of Park Ridge Ethics Complaint Form” (“*Ethics Complaint*”) with the City Clerk’s office against CP&D Director James A. Brown. The complaint form includes a number of attachments, including handwritten notes and communications between Mr. Plaza and various City employees regarding a building code matter. The substance of the complaint is that the City allowed the owners of 1700 Potter Road to construct a shed on their property in violation of zoning and building code regulations. Mr. Plaza also filed similar ethics complaints against CP&D employees John Sclafani and Howard Coppari, and Acting Mayor Maloney.

II. Ethics Complaint Process

The City has enacted ethics regulations in Chapter 5 of Title 2 of the City Code of Ordinances. These ethics regulations include the following: (1) disclosure statement filing requirements for City officials (2-5-2 and 2-5-4), (2) conflict of interest restrictions (2-5-3); (3) prohibited political activities (2-5-3H); and (4) gift ban regulations (2-5-6).

In Section 2-5-8, a person can file an ethics complaint alleging a violation of the City’s ethics regulations. The procedure for processing an ethics complaint is summarized below:

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- a. Response of “no violation.” If the City Attorney finds that the complaint fails to set forth a violation of the City’s ethics code or law, then the City Attorney forwards a response of “no violation” to the City Manager and Mayor.** (go to step 4.a).
- b. Response of “valid complaint.” If the City Attorney finds the complaint valid, the City Attorney must forward a response of “valid complaint” to the City Manager. (go to step 6)

**Note that if the complaint is filed against the Manager or Mayor, then the P&R Chair will replace the Manager or Mayor, as the case may be.

Step 4. City Manager/Mayor Review. Upon receipt of the City Attorney’s response, the Manager and Mayor (or replacement where either is the subject of the complaint) must take the following action, depending on the nature of the response.

- a. If the Manager and Mayor (or replacement) agree with the City Attorney’s response of “no violation,” then the complaint, response, and other documentation is forwarded to the City Council for action at its next regular meeting (go to step 5).
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Step 5. City Council Action. The City Council must schedule a vote on whether to move forward with the ethics complaint (notwithstanding the finding of “no violation” by the City Attorney, Manager, and Mayor) at a City Council meeting. The vote is on the following: “Shall the Ethics Complaint filed on [date] be forwarded to an Independent Reviewer?” If 4 aldermen are in favor of sending the complaint to an Independent Reviewer, then the process in step 6 applies. If the vote fails, then the complaint is closed.

Step 6. Independent Reviewer Investigation. If a complaint is found valid under 3.b, 4.b, or 5 above, the City Manager must retain an independent reviewer. That person must be a retired judge, prosecutor, or administrative adjudicator in Cook County. The independent reviewer is responsible for conducting an investigation and rendering a written decision within 45 days of the filing of the complaint. If the independent reviewer makes a finding of probable cause that a violation has been committed, then he or she will initiate further action which may include an administrative adjudication hearing or a circuit court complaint.

III. Summary of Complaint

Mr. Plaza filed the Ethics Complaint on the official City of Park Ridge complaint form.

In Section III of the complaint form, a complainant must specify the section or subsection of the City of Park Ridge Ethics Code or state or federal law that the complainant believes has been violated. The following is a summary of Mr. Plaza's response:

- (1) Failure to comply with various building codes, including the residential code, national electric code, national fire prevent association and fire code.
- (2) City and ComEd attempted to place a ComEd utility pole on his property without the necessary easement.
- (3) Failed to enforce ordinances in a fair and impartial manner
- (4) Failed to assist resident looking for guidance.
- (5) Incompetent, lacks confidence and knowledge. Conducts inspections via 4x6 Kodak photo.
- (6) Uses "it appears" as a conclusion to his inspections.

In Section V of the complaint form, the complainant must provide a detailed narrative description of the violation and/or conflict of interest. In response, Mr. Plaza stated as follows:

- "1) On or about July 10, 2015 to present
- 2) City of Park Ridge, IL 60068 authorities and inspectors have favored and exhibited favoritism for Michael Stoja 1700 Potter Road Park Ridge, IL by allowing him to build a shed to his specifications and not to that of the zoning ordinances of Park Ridge, IL. No permit, oversize structure, encroachment on ComEd easement and wires lying on roof.
- 3) For 1 year and 6 mos, the authorities of Park Ridge, IL have refused to take any action against Michael Stoja and his structure (B15-1655) on October 28, 2015 Dennis McMahon, inspector, Park Ridge, IL failed the shed."

Mr. Plaza's complaint attached more than 40 pages of documents including correspondence between Mr. Plaza and City officials, photographs, excerpts from City regulations, and handwritten notes presumably written by Mr. Plaza.

The attachments appear to document the construction by the Stojas (who live next door to Mr. Plaza) of a shed on their property. In these attachments, there are handwritten notes presumably made by Mr. Plaza that his neighbors constructed the shed without the required permit in 2015, and that he reported the conduct to City officials. These notes also claim that electrical wires were placed too close to the roof of the shed, and that he reported this to both the City and to ComEd. There is correspondence between City officials and ComEd about the electrical wires over the Stojas property. His notes allege that the City treated the Stojas preferentially because it required Mr. Plaza to take down his flower trellis but let the Stojas keep their shed. The attachments also show that after being notified that they needed a building permit, the Stojas did apply for a building permit on July 24, 2015, which was approved on August 7, 2015. The initial inspection report failed because of the proximity of the ComEd wires to the roof of the shed. There were numerous communications between City officials, the Stojas, and ComEd to address the ComEd wire over the shed.

IV. Analysis of Allegations in Complaint

The Complaint centers on claims that the Stojas (next door neighbors of Mr. Plaza) violated the City's building code when they constructed a shed without a permit. Mr. Plaza's complaints about the shed have been investigated and followed-up over the past few years by a number of City officials, and involve numerous meetings and communications between City officials and Mr. Plaza, the Stojas, ComEd, and others. According to the documentation submitted by Mr. Plaza with his Complaint, the Stojas did apply for a permit for the shed in July of 2015, and the permit was issued in August of 2015.

According to discussions with CP&D staff and correspondence relating to this issue, the building code and permitting issues have since been resolved. The Stojas applied for and obtained a permit for the shed. The shed has been inspected, and was subsequently relocated outside of ComEd's easement. CP&D considers this complaint closed.

But, even if the building code or permitting issues were still pending and not yet resolved, these issues are not the proper subject of, or within the jurisdiction of, an ethics complaint. Instead, building code complaints are within the jurisdiction of CP&D, which department has the authority to process, investigate, and respond to complaints alleging building and zoning code violations. If a complainant is not satisfied with that response, he or she may have civil remedies against a neighboring property owner, including filing a private nuisance actions or a complaint under the Adjoining Landowner Act.

Although the documentation makes an allegation of a conflict of interest on the part of City officials or staff, the documentation contains no factual allegations in support of that claim. There are no factual allegations in support of any claim that CP&D Director Brown had a financial or personal interest in the Stojas construction of their shed, resolution of the ComEd wire relocation, or any of the other allegations made in the Ethics Complaint.

V. Finding of No Violation

The ethics complaint process is intended to address allegations that a City official or employee has violated some provision of Chapter 5 of Title 2 of the City Code of Ordinance (i.e., ethics provisions such as accepting an unlawful gift, engaging in prohibited political activities, or taking action on a matter where the official has a conflict of interest).

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The City Attorney issues a finding of "No Violation" as to the Ethics Complaint.

Signed: 
Julie A. Tappendorf, One of the City Attorneys

Dated: 4/3/17

VI. Signatures of City Manager and Acting Mayor

Agree with City Attorney's Finding of No Violation

Disagree with City Attorney's Finding of No Violation

Signed: 
Acting City Manager

Dated: 4/11/2017

Signed: 
Acting Mayor

Dated: 4/12/2017

Attachments:

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MEMORANDUM

To: Joe Gilmore, Acting City Manager
Marty Maloney, Mayor

From: Julie A. Tappendorf, City Attorney

Subject: Response to Ethics Complaint in Eugene J. Plaza vs. Howard Coppari

Date: April 3, 2017

Confidential – Attorney/Client Privileged Communication

I. Background

On March 16, 2017, Eugene J. Plaza of 2701 Mayfield Drive, Park Ridge, Illinois, filed an “Official City of Park Ridge Ethics Complaint Form” (“*Ethics Complaint*”) with the City Clerk’s office against City Employee Howard Coppari. The complaint form includes a number of attachments, including handwritten notes and communications between Mr. Plaza and various City employees regarding a building code matter. The substance of the complaint is that the City allowed the owners of 1700 Potter Road to construct a shed on their property in violation of zoning and building code regulations. Mr. Plaza also filed similar ethics complaints against CP&D employees Jim Brown and John Sclafani, and Acting Mayor Maloney.

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III. Summary of Complaint

Mr. Plaza filed the Ethics Complaint on the official City of Park Ridge complaint form.

In Section III of the complaint form, a complainant must specify the section or subsection of the City of Park Ridge Ethics Code or state or federal law that the complainant believes has been violated. The following is a summary of Mr. Plaza's response:

- (1) Refused to enforce zoning laws, ordinances and regulations in a professional business manner
- (2) Refused to respond to complaints and or disputes between neighbors
- (3) Refused to answer questions and resolve problems with neighbors.
- (4) Refused to assist or resolve potential "fire hazard" condition with electrical wires.
- (5) City and ComEd attempted to place a ComEd utility pole on his property without the necessary easement.

In Section V of the complaint form, the complainant must provide a detailed narrative description of the violation and/or conflict of interest. In response, Mr. Plaza stated as follows:

- "1) On or about July 10, 2015 to present
- 2) The City of Park Ridge, IL 60068 authorities & inspectors failed & refused to enforce the zoning regulations on the backyard structure built without a zoning permit, encroached on the easement of the utility co. known as Commonwealth Edison and relocate their structure built under ComEd electrical wires that have been lying on the structure for the past 18 months.
- 3) For the past 18 months I have sent e-mails, letters (see attached) made dozens of phone calls with no success, regarding the zoning violation of Stojas shed. On September 04, 2015, I received a letter from the City of Park Ridge, IL 60068, Inspector Howard Coppari of the zoning dept. of the same City. Insp. Coppari included a photo taken of my property with a trellis attached to my fence at 2701 Mayfield Dr. Park Ridge, IL 60068. Insp. Coppari stated that I am in violation of 11.4.E.2.b – fences in residential district. The photo was taken September 03, 2015 and letter of complaint typed September 04, 2015. I received the complaint letter on or about September 08, 2015. I telephonically contacted Insp. Coppari and inquired as to the swiftness of the complaint letter. He responded by stating "Did you take the fence attachment down." I then asked him about "how" and "when" will Michael & Jessica Stoja 1700 Potter Rd. Park Rdge, IL. Shed comply to zoning standards? Insp. Coppari then stated "good-bye" and the conversation ended."

Mr. Plaza's complaint attached 61 pages of documents including correspondence between Mr. Plaza and City officials, photographs, excerpts from City regulations, and handwritten notes presumably written by Mr. Plaza.

The attachments appear to document the construction by the Stojas (who live next door to Mr. Plaza) of a shed on their property. In these attachments, there are handwritten notes presumably made by Mr. Plaza that his neighbors constructed the shed without the required permit in 2015, and that he reported the conduct to City officials. These notes also claim that electrical wires

were placed too close to the roof of the shed, and that he reported this to both the City and to ComEd. There is correspondence between City officials and ComEd about the electrical wires over the Stojas property. His notes allege that the City treated the Stojas preferentially because it required Mr. Plaza to take down his flower trellis but let the Stojas keep their shed. The attachments also show that after being notified that they needed a building permit, the Stojas did apply for a building permit on July 24, 2015, which was approved on August 7, 2015. The initial inspection report failed because of the proximity of the ComEd wires to the roof of the shed. There were numerous communications between City officials, the Stojas, and ComEd to address the ComEd wire over the shed.

IV. Analysis of Allegations in Complaint

The Complaint centers on claims that the Stojas (next door neighbors of Mr. Plaza) violated the City's building code when they constructed a shed without a permit. Mr. Plaza's complaints about the shed have been investigated and followed-up over the past few years by a number of City officials, and involve numerous meetings and communications between City officials and Mr. Plaza, the Stojas, ComEd, and others. According to the documentation submitted by Mr. Plaza with his Complaint, the Stojas did apply for a permit for the shed in July of 2015, and the permit was issued in August of 2015.

According to discussions with CP&D staff and correspondence relating to this issue, the building code and permitting issues have since been resolved. The Stojas applied for and obtained a permit for the shed. The shed has been inspected, and was subsequently relocated outside of ComEd's easement. CP&D considers this complaint closed.

But, even if the building code or permitting issues were still pending and not yet resolved, these issues are not the proper subject of, or within the jurisdiction of, an ethics complaint. Instead, building code complaints are within the jurisdiction of CP&D, which department has the authority to process, investigate, and respond to complaints alleging building and zoning code violations. If a complainant is not satisfied with that response, he or she may have civil remedies against a neighboring property owner, including filing a private nuisance actions or a complaint under the Adjoining Landowner Act.

Although the documentation makes an allegation of a conflict of interest on the part of City officials or staff, the documentation contains no factual allegations in support of that claim. There are no factual allegations in support of any claim that City Employee Coppari had a financial or personal interest in the Stojas construction of their shed, resolution of the ComEd wire relocation, or any of the other allegations made in the Ethics Complaint.

V. Finding of No Violation

The ethics complaint process is intended to address allegations that a City official or employee has violated some provision of Chapter 5 of Title 2 of the City Code of Ordinance (i.e., ethics

April 3, 2017

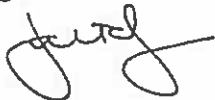
Page 5

provisions such as accepting an unlawful gift, engaging in prohibited political activities, or taking action on a matter where the official has a conflict of interest).

After reviewing the Ethics Complaint and the attached documentation, and analyzing the allegations and applying the City's ethics code and laws, it is my opinion that the Ethics Complaint fails to set forth adequate violations of the ethics code or laws. The allegations in the Ethics Complaint do not involve or even implicate any of the ethics regulations or laws that are within the jurisdiction of an ethics complaint procedure as authorized by section 2-5-8 of the City Code of Ordinances. Instead, the allegations center on Mr. Plaza's claim that the City failed to respond to his complaints about his neighbor's shed – issues that are outside the jurisdiction of an ethics complaint.

The City Attorney issues a finding of "No Violation" as to the Ethics Complaint.

Signed:



Julie A. Tappendorf, One of the City Attorneys

Dated: April 3, 2017

VI. Signatures of City Manager and Acting Mayor



Agree with City Attorney's Finding of No Violation



Disagree with City Attorney's Finding of No Violation

Signed:


Acting City Manager

Dated:

4/11/2017

Signed:


Acting Mayor

Dated:

4/12/2017

Attachments:

1. Ethics Complaint Filed by Eugene J. Plaza, dated March 16, 2017, with attachments
2. City of Park Ridge Ethics Complaint Rules of Procedure

MEMORANDUM

To: Joe Gilmore, Acting City Manager
Marty Maloney, Acting Mayor

From: Julie A. Tappendorf, City Attorney

Subject: Response to Ethics Complaint in Eugene J. Plaza vs. John Sclafani

Date: April 3, 2017

Confidential – Attorney/Client Privileged Communication

I. Background

On March 13, 2017, Eugene J. Plaza of 2701 Mayfield Drive, Park Ridge, Illinois, filed an “Official City of Park Ridge Ethics Complaint Form” (“*Ethics Complaint*”) with the City Clerk’s office against City Employee John Sclafani. The complaint form includes a number of attachments, including handwritten notes and communications between Mr. Plaza and various City employees regarding a building code matter. The substance of the complaint is that the City allowed the owners of 1700 Potter Road to construct a shed on their property in violation of zoning and building code regulations. Mr. Plaza also filed similar ethics complaints against CP&D employees Jim Brown and Howard Coppari, and Acting Mayor Maloney.

II. Ethics Complaint Process

The City has enacted ethics regulations in Chapter 5 of Title 2 of the City Code of Ordinances. These ethics regulations include the following: (1) disclosure statement filing requirements for City officials (2-5-2 and 2-5-4), (2) conflict of interest restrictions (2-5-3); (3) prohibited political activities (2-5-3H); and (4) gift ban regulations (2-5-6).

In Section 2-5-8, a person can file an ethics complaint alleging a violation of the City’s ethics regulations. The procedure for processing an ethics complaint is summarized below:

Step 1. Filing of Complaint. Ethics complaint is filed with City Clerk.

Step 2. City Clerk Receipt. City Clerk receives the complaint and records it in a complaint log. Within 7 days of the filing, the City Clerk forwards the complaint to the City Attorney.

Step 3. City Attorney Response. The City Attorney reviews the complaint, and within 21 days after receipt of the complaint from the City Clerk, issues a response to the complaint, which can take one of 2 forms:

- a. Response of “no violation.” If the City Attorney finds that the complaint fails to set forth a violation of the City’s ethics code or law, then the City Attorney forwards a response of “no violation” to the City Manager and Mayor.** (go to step 4.a).
- b. Response of “valid complaint.” If the City Attorney finds the complaint valid, the City Attorney must forward a response of “valid complaint” to the City Manager. (go to step 6)

**Note that if the complaint is filed against the Manager or Mayor, then the P&R Chair will replace the Manager or Mayor, as the case may be.

Step 4. City Manager/Mayor Review. Upon receipt of the City Attorney’s response, the Manager and Mayor (or replacement where either is the subject of the complaint) must take the following action, depending on the nature of the response.

- a. If the Manager and Mayor (or replacement) agree with the City Attorney’s response of “no violation,” then the complaint, response, and other documentation is forwarded to the City Council for action at its next regular meeting (go to step 5).
- b. If the Manager and Mayor (or replacement) disagree with the City Attorney’s response of “no violation,” then the complaint moves forward to step 6.

Step 5. City Council Action. The City Council must schedule a vote on whether to move forward with the ethics complaint (notwithstanding the finding of “no violation” by the City Attorney, Manager, and Mayor) at a City Council meeting. The vote is on the following: “Shall the Ethics Complaint filed on [date] be forwarded to an Independent Reviewer?” If 4 aldermen are in favor of sending the complaint to an Independent Reviewer, then the process in step 6 applies. If the vote fails, then the complaint is closed.

Step 6. Independent Reviewer Investigation. If a complaint is found valid under 3.b, 4.b, or 5 above, the City Manager must retain an independent reviewer. That person must be a retired judge, prosecutor, or administrative adjudicator in Cook County. The independent reviewer is responsible for conducting an investigation and rendering a written decision within 45 days of the filing of the complaint. If the independent reviewer makes a finding of probable cause that a violation has been committed, then he or she will initiate further action which may include an administrative adjudication hearing or a circuit court complaint.

III. Summary of Complaint

Mr. Plaza filed the Ethics Complaint on the official City of Park Ridge complaint form.

In Section III of the complaint form, a complainant must specify the section or subsection of the City of Park Ridge Ethics Code or state or federal law that the complainant believes has been violated. The following is a summary of Mr. Plaza's response:

- (1) Failed to enforce various building codes.
- (2) Refused to assist citizens looking for information.
- (3) Refused to deal with a variety of complaints.
- (4) Refused to write citations on building and zoning issues.
- (5) Refused to respond to complaints or disputes between neighbors regarding Stojas construction project.
- (6) Failed to enforce ordinances tactfully and impartially in a professional manner.
- (7) Failed to determine acceptable building construction as related to electrical aspects.
- (8) Ignored safety rules, procedure manuals.

In Section V of the complaint form, the complainant must provide a detailed narrative description of the violation and/or conflict of interest. In response, Mr. Plaza stated as follows:

- "1) Time frame is on or about July 10, 2015 to present
- 2) The City of Park Ridge, IL zoning dept. knowingly, willfully with intent failed to properly inspect, supervise, guide, advise with due diligence the construction of the unpermitted shed with unlicensed laborers located at 1700 Potter Rd. Park Ridge, IL. 60068. Michael & Jennifer Stoja owners
- 3) The rule of law, emails and facts will substantiate the violations committed by John Sclafani/inspector. No fines, summons or citations."

Mr. Plaza's complaint attached 53 pages of documents including correspondence between Mr. Plaza and City officials, photographs, excerpts from City regulations, and handwritten notes presumably written by Mr. Plaza.

The attachments appear to document the construction by the Stojas (who live next door to Mr. Plaza) of a shed on their property. In these attachments, there are handwritten notes presumably made by Mr. Plaza that his neighbors constructed the shed without the required permit in 2015, and that he reported the conduct to City officials. These notes also claim that electrical wires were placed too close to the roof of the shed, and that he reported this to both the City and to ComEd. There is correspondence between City officials and ComEd about the electrical wires over the Stojas property. His notes allege that the City treated the Stojas preferentially because it required Mr. Plaza to take down his flower trellis but let the Stojas keep their shed. The attachments also show that after being notified that they needed a building permit, the Stojas did apply for a building permit on July 24, 2015, which was approved on August 7, 2015. The initial inspection report failed because of the proximity of the ComEd wires to the roof of the shed. There were numerous communications between City officials, the Stojas, and ComEd to address the ComEd wire over the shed.

IV. Analysis of Allegations in Complaint

The Complaint centers on claims that the Stojas (next door neighbors of Mr. Plaza) violated the City's building code when they constructed a shed without a permit. Mr. Plaza's complaints about the shed have been investigated and followed-up over the past few years by a number of City officials, and involve numerous meetings and communications between City officials and Mr. Plaza, the Stojas, ComEd, and others. According to the documentation submitted by Mr. Plaza with his Complaint, the Stojas did apply for a permit for the shed in July of 2015, and the permit was issued in August of 2015.

According to discussions with CP&D staff and correspondence relating to this issue, the building code and permitting issues have since been resolved. The Stojas applied for and obtained a permit for the shed. The shed has been inspected, and was subsequently relocated outside of ComEd's easement. CP&D considers this complaint closed.

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Although the documentation makes an allegation of a conflict of interest on the part of City officials or staff, the documentation contains no factual allegations in support of that claim. There are no factual allegations in support of any claim that City Employee Sclafani had a financial or personal interest in the Stojas construction of their shed, resolution of the ComEd wire relocation, or any of the other allegations made in the Ethics Complaint.

V. Finding of No Violation

The ethics complaint process is intended to address allegations that a City official or employee has violated some provision of Chapter 5 of Title 2 of the City Code of Ordinance (i.e., ethics provisions such as accepting an unlawful gift, engaging in prohibited political activities, or taking action on a matter where the official has a conflict of interest).

After reviewing the Ethics Complaint and the attached documentation, and analyzing the allegations and applying the City's ethics code and laws, it is my opinion that the Ethics Complaint fails to set forth adequate violations of the ethics code or laws. The allegations in the Ethics Complaint do not involve or even implicate any of the ethics regulations or laws that are within the jurisdiction of an ethics complaint procedure as authorized by section 2-5-8 of the City Code of Ordinances. Instead, the allegations center on Mr. Plaza's claim that the City failed to respond to his complaints about his neighbor's shed – issues that are outside the jurisdiction of an ethics complaint.

The City Attorney issues a finding of "No Violation" as to the Ethics Complaint.

Signed:



Julie A. Tappendorf, One of the City Attorneys

Dated: April 3, 2017

VI. Signatures of City Manager and Acting Mayor



Agree with City Attorney's Finding of No Violation



Disagree with City Attorney's Finding of No Violation

Signed:


Acting City Manager

Dated:

4/11/2017

Signed:


Acting Mayor

Dated:

4/12/2017

Attachments:

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