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[emhill@ktjlaw.com](mailto:emhill@ktjlaw.com)**MEMORANDUM**

**TO:** Marc Mazucca, Alderman of the 6<sup>th</sup> Ward, Park Ridge

**FROM:** Everette M. Hill, Jr.

**DATE:** January 24, 2014

**RE:** Advisory Ethics Opinion

You have asked, pursuant to Sec. 2-5-10 of the City Ethics provisions, for an advisory opinion as to the propriety of your attending and participating in the meeting of the FAIR Coalition to be held on Saturday, January 25th in Park Ridge.

It has been contended, at least as I understand the contention, that because FAIR may ultimately have different objectives than the stated objectives of the City Council with respect to O'Hare Airport issues, any attendance by a City Official would be perceived as support for those differing objectives and thus, a conflict of interest is created.

I have thoroughly reviewed the City's Ethics standards, state conflict of interest legislation and the common law with respect to conflicts of interest.

It is my opinion that such participation creates NO CONFLICT.

Section 2-5-3 of the Ethics Code (attached to this memo) addresses those actions for which there is a specific prohibition by a City Official. I have carefully reviewed each and every one of these specific prohibitions and it is my opinion that participation in a FAIR meeting by a City Official is NOT a Prohibited Activity under Section 2-5-3.

Section 2-5-4 of the Ethics Code addresses the general standard for determining whether a conflict of interest might exist with respect matters other than those Prohibited Activities set forth in 2-5-3. 2-5-4 B states:

**B. Standard for Determining Conflict of Interest.** For purposes of this Section 2-5-4, a conflict of interest is created when a non-City interest would cause an impairment of the official's ability to exercise independent judgment on behalf of the City. The standard for determining impairment of independent judgment is objective rather than subjective and shall be whether a person of ordinary and reasonable judgment would be affected.

Any of the foregoing notwithstanding, a person shall be deemed to have a conflict of interest in the following circumstances.

1. The person is seeking to acquire a one percent (1%) or more ownership interest in or is about to become an officer, director, management official, employee, attorney or other professional consultant in any entity seeking consideration from or attempting to establish a business relationship with the City.
2. The person is representing another person or entity as an advocate or consultant in a matter not concerning the City of Park Ridge in which the other entity or person being represented has another interest which is adverse to the interests of the City, or when that other entity or person is actively seeking other consideration from the City.

It is abundantly clear that the circumstances described in 1 and 2 are inapplicable. I have no knowledge that FAIR is seeking any consideration from the City or is seeking to establish a "business" relationship with the City. Likewise, attendance at and participation in a FAIR meeting is not the equivalent of "representation" of FAIR. Indeed it is difficult to perceive how participation in a FAIR meeting would affect a City Official's ability to "exercise independent judgment" on behalf of the City. If such participation were deemed to create such a conflict, a governmental official could never attend a meeting of an organization that espouses political opinions or indeed, engages in fact-finding. Having attended every session of the City Council when the Ethics Code was being discussed and formulated, it is clear to me that such was not the intent of the City Council at that time.

In view of all that I set forth above, it is my opinion that attendance at and participation in the FAIR meeting creates NO conflict of interest for a City Alderman. This opinion is the same with respect to any member of the O'Hare Commission.

If so directed by the City Council, I will expand upon this opinion.