

RALPH BECKER  
Mayor

MARGARET PLANE  
CITY ATTORNEY



February 3, 2015

Irena Edwards  
Keybank Real Estate Capital  
36 South State Street, Suite 2506  
Salt Lake City, Utah 84111

Re: Ethics Opinion: Irena Edwards and Housing Trust Fund Advisory Board

Dear Ms. Edwards:

You have requested advice from the City Attorney's Office as to whether the City's Conflict of Interest Ordinance would prevent your appointment to the Housing Trust Fund Advisory Board ("HTFA Board").

Short Answer: As discussed below,<sup>1</sup> Irena Edwards ("Ms. Edwards") does not have a potential conflict of interest situation that would preclude her from being appointed to the HTFA Board. However, depending on the specific circumstances, there may be specific matters coming before the HTFA Board that would require her to disclose a conflict and disqualify herself from discussing and/or voting on the matter pursuant to Salt Lake City Code ("SLCC") § 2.44.030.

I.

### BACKGROUND

Irena Edwards has been nominated by Mayor Becker to be a member of the HTFA Board. From Ms. Edward's representations, the Salt Lake City Attorney's Office understands the following to be the operative facts:

1. Ms. Edwards is employed by KeyBank National Association ("KeyBank") as a salaried Senior Relationship Manager VP ("Senior Relationship Manager").
2. As a Senior Relationship Manager, Ms. Edwards develops relationships with property developers and property investors, originates loans, manages portfolios of loans, oversees a team of underwriters, and cross-sells various services to clients.

<sup>1</sup> This advice is based on information provided by Ms. Edwards. We did not consult other individuals for factual information.

3. Ms. Edwards' work at KeyBank is limited to market-rate housing projects and does not include affordable housing projects.
4. Under Keybank's corporate structure, a Senior Relationship Manager in Ms. Edwards' position would not receive a financial benefit due to the outcome of any HTFA Board project or recommendation.
5. Ms. Edwards owns stock in KeyCorp (KeyBank is a subsidiary of KeyCorp and does not issue separate stock) in an amount that represents less than .1% of the outstanding shares of KeyCorp.
6. The HTFA Board consists of eleven appointed members, including at least four board members who have experience or expertise in areas of business, real estate, or housing development.
7. Ms. Edwards has been appointed to the HTFA Board by Mayor Ralph Becker and the City Council is scheduled to consider approving such appointment on February 3, 2015.

## II.

### DISCUSSION

As set forth in SLCC § 2.44.010, the purpose of the Conflict of Interest chapter of the Salt Lake City Code (Chapter 2.44) is:

“to prevent improper influence, avoid the appearance of impropriety, and prohibit public servants from receiving unjust financial gain from public service. It also seeks to increase public confidence by assuring that governmental actions are taken ethically and in compliance with all applicable procedures. It is the objective of this chapter to promote these goals by establishing ethical standards of conduct for all officers and employees of the city, including volunteers.”

SLCC § 2.44.030 provides that:

“If the performance of a public servant or volunteer public servant constitutes any governmental action on any matter involving the public servant's or volunteer public servant's financial or professional interest and it is reasonably foreseeable that the decision will have an individualized material effect on such interest,

distinguishable from its effect on the public generally, the public servant or volunteer public servant shall disclose such matter: to . . . . the mayor and to the members of the public body, if any, of which the public servant or volunteer public servant is a member. . . . The public servant or volunteer public servant who has a financial interest shall disqualify himself or herself from participating in any deliberation as well as from voting on such matter. The public servant or volunteer public servant who has only a professional interest need not disqualify himself or herself.”

Pursuant to SLCC 2.44.020, Ms. Edwards should be considered a “volunteer public servant” for purposes of this analysis because she is an “appointed person, other than elected officer serving on a . . . board of the city, who is not paid a salary or an hourly wage by the city for his or her services thereon.” SLCC 2.44.020 specifically exempts volunteer public servants from the definition provided for a “public servant.”

A “financial interest” is defined in SLCC § 2.44.020 as either a substantial interest (i.e., a ten percent or greater ownership interest) in a business entity or holding a position of management or employment in a business entity. Ms. Edwards does have a financial interest in KeyBank due to her employment as a KeyBank Senior Relationship Manager. Consequently, when a matter comes before the HTFA Board for decision and it is reasonably foreseeable that such decision will have an individualized material effect on Ms. Edwards’ financial interest in Keybank, then Ms. Edwards must (1) disclose her financial interest in KeyBank, and (2) disqualify herself from discussing and voting on such matter.

Salt Lake City Code § 2.44.040 provides that:

A. A public servant or volunteer public servant may not:

1. Unless otherwise allowed by law, disclose confidential information acquired by reason of the public servant's or volunteer public servant's official position or in the course of official duties or use such information in order to: a) substantially further the public servant's or volunteer public servant's financial or professional interest or the financial or professional interest of others; or b) secure special privileges or exemptions for the public servant or volunteer public servant or others.
2. Corruptly use or attempt to use the public servant's or volunteer public servant's official position to: a) further substantially the public servant's or volunteer public servant's financial or professional interest or the financial or professional interest

of others; or b) secure special privileges for the public servant or volunteer public servant or others.

B. A public servant may not have a financial or professional interest in an entity that is doing business with the city department in which the public servant is employed. A volunteer public servant may not have a financial or professional interest in an entity that is doing business with the city department or division to whom the city committee, commission, authority, agency, or board of which the volunteer public servant is a member primarily provides direct assistance or direction. For purposes of this subsection, the city department of a member of the city council shall be deemed to be the city council office, and the city department of the mayor shall be deemed to be all city departments.

As a volunteer public servant, Ms Edwards is barred from corruptly using or attempting to use her position on HTFA Board to: (a) substantially further her own financial or professional interest; (b) substantially further the financial or professional interests of others; or (c) secure special privileges for herself or others.

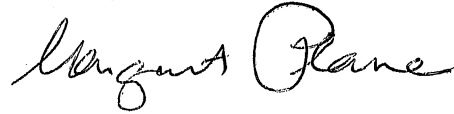
SLCC § 2.44.040(B) prohibits a volunteer public servant from having a financial interest in an entity that is doing business with the division of the City to which the volunteer public servant's board provides direct assistance or direction. Here, the division of the City at issue is the Housing and Neighborhood Development division ("HAND"). It is our understanding that KeyBank is not doing business with HAND in a way that would prevent Ms. Edwards from being eligible to serve on the HTFA Board under SLCC 2.44:040(B).

### III.

### CONCLUSION

Based on the facts presented, this office concludes that the City's Conflict of Interest Ordinance would not prevent Irena Edwards from serving on the HTFA Board. However, depending on the specific circumstances at issue, there may be specific matters coming before the HTFA Board that would require her to disclose a conflict and disqualify herself from discussing and voting on the matter pursuant to Salt Lake City Code Section 2.44.030.

Sincerely,

A handwritten signature in cursive script that reads "Margaret Plane". The signature is written in black ink and is positioned above the printed name.

MARGARET PLANE  
City Attorney