

**IN THE MATTER OF ERIK DILAN  
COIB CASE NO. 2011-201  
JANUARY 22, 2015**

**SUMMARY:** A former Council Member paid a \$9,000 fine for two violations of the City's conflicts of interest law. Starting in 2003, the Council Member started renting an apartment from a developer and property manager of multiple affordable housing developments sponsored by the New York City Department of Housing Preservation and Development ("HPD"); for some of the HPD-sponsored developments, Council approval was sought for designation as a Urban Development Action Area Project ("UDAAP"), which designation, among other things, would exempt the property from real estate taxes on the assessed value of the buildings for up to twenty years. The former Council Member, without disclosing his financial relationship with the developer, voted in favor of the UDAAP resolutions for three of the developer's projects in 2003 and 2006. Second, in 2008, the Council Member asked the developer about moving into a larger apartment and then selected an apartment designed for a tenant earning an income level less than what his family earned. The City's conflicts of interest law prohibits public servants from using their positions to obtain a personal benefit, which would include soliciting such a benefit from a firm or individual with a matter pending, or expected to be pending, before the public servant's agency. *COIB v. Dilan*, COIB Case No. 2011-201 (2015).

**STIPULATION AND DISPOSITION:**

**WHEREAS**, the New York City Conflicts of Interest Board (the "Board") commenced an enforcement action pursuant to Section 2603(h)(1) of Chapter 68 of the New York City Charter ("Chapter 68") against Erik Dilan ("Respondent"); and

**WHEREAS**, the Board and Respondent wish to resolve this matter on the following terms,

**IT IS HEREBY AGREED** by and between the parties as follows:

1. In full satisfaction of the above-captioned matter, Respondent admits the following:
  - a. I served as a Member of the City Council, representing the 37<sup>th</sup> Council District in Brooklyn, from January 1, 2002, through December 31, 2013. As such, during this time I was a "public servant" within the meaning of and subject to Chapter 68.
  - b. Among my duties as a Council Member, I served as the Chair of Housing and Buildings Committee at the Council
  - c. In 2003, I began renting a one-bedroom apartment at 33 Schaefer Street in Brooklyn, a building owned by Sergio Benitez, at the time a developer and property manager of multiple affordable housing developments sponsored by the

New York City Department of Housing Preservation and Development (“HPD”). As such, I was “associated” with Benitez within the meaning of Chapter 68.

- d. Benitez was the developer for multiple projects sponsored by HPD for which Council approval was sought for designation as an Urban Development Action Area Project (“UDAAP”). A project eligible to be a UDAAP involves the rehabilitation or new construction on formerly City-owned land in an area which the Council determines to be in need of urban renewal. Once the Council passes a resolution designating a project as a UDAAP, the property is exempt from real estate taxes on the assessed value of the buildings for up to 20 years.
- e. I voted in favor of the UDAAP resolutions for three projects in which Benitez was the developer when I was renting an apartment from him at 333 Schaefer Street, as follows:
  - i. The UDAAP resolution for the Bleecker Street Cluster in Brooklyn on April 9, 2003;
  - ii. The UDAAP resolution for the TBK Rd. 4 project in Brooklyn on October 15, 2003; and
  - iii. The UDAAP resolution for the Cooper & Decatur Street Cluster in Brooklyn on October 15, 2006.
- f. I did not disclose my financial relationship with Benitez on the record of the Council prior to any of these three votes as is required of an elected official pursuant to Section 2604(b)(1) of the City Charter. City Charter § 2604(b)(1) provides:

A public servant who has an interest in a firm which is not prohibited by subdivision a of this section, shall not take any action as a public servant particularly affecting that interest, except that . . . in the case of an elected official, such action shall not be prohibited, but the elected official shall disclose the interest to the conflicts of interest board, and on the official records of the council or the board of estimate in the case of matters before those bodies.
- g. In early 2008, I approached Benitez about moving into a larger apartment.
- h. Benitez showed me several apartments at the newly remodeled building at 1281 Decatur Street, which was part of the Cooper & Decatur Street Cluster. At that time, all of the apartments in the buildings in the Cooper & Decatur Street Cluster were required, pursuant to a regulatory agreement between the developer and HPD, to be rented to tenants earning income below certain income thresholds, calculated in relation to the “area median income” (“AMI”) set by the United States Department of Housing and Urban Development. The developer was required by the regulatory agreement with HPD to request and maintain

documents that verify a prospective tenant's family income at the time of the signing of the lease.

- i. The two-bedroom apartment I selected to rent at 1281 Decatur Street was designated for a tenant earning 165% of AMI. At that time, 165% of AMI for a family of three was \$114,000 per year. When my wife and I rented the apartment at 1281 Decatur Street, we were earning a total of \$174,205.55 annually.
- j. I acknowledge that, by voting at the City Council on resolutions benefiting my associate without disclosing that association and by soliciting and accepting an apartment in an income-restricted building for which I did not meet the restrictions from a developer with matters regularly before the City Council, I violated the City's conflicts of interest law (Chapter 68), specifically City Charter § 2604(b)(3), which states:

No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

2. In recognition of the foregoing, Respondent agrees to the following:

- a. I agree to pay a fine of Nine Thousand Dollars (\$9,000.00) to the Board by money order or by cashier, bank or certified check, made payable to the "New York City Conflicts of Interest Board," as follows: Two Thousand Two Hundred Fifty Dollars (\$2,250.00) on or before September 15, 2014; Two Thousand Two Hundred Fifty Dollars (\$2,250.00) on or before October 15, 2014; Two Thousand Two Hundred Fifty Dollars (\$2,250.00) on or before November 15, 2014; and Two Thousand Two Hundred Fifty Dollars (\$2,250.00) on or before December 15, 2014.
- b. I agree that this Disposition is a public and final resolution of the Board's action against me.
- c. I knowingly waive, on my behalf and on behalf of my successors and assigns, any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States, and to contest the lawfulness, authority, jurisdiction, or power of the Board in imposing the penalty which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Board, or any members or employees thereof relating to, or arising out of this Disposition or the matters recited therein.

- d. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress and after been represented by an attorney of my choice; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the Board; and that I fully understand all the terms of this Disposition.
- e. I agree that any material misstatement of the facts of this Chapter 68 matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

3. The Board accepts this Disposition and the terms contained herein as a final Disposition of the above-captioned matter only, and affirmatively state that other than as recited herein, no further action will be taken by the Board against Respondent based upon the facts and circumstances set forth herein, except that the Board shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

4. This Disposition shall not be effective until all parties have affixed their signatures below.

Dated: September 15, 2014

\_\_\_\_\_/s/  
Erik Dilan  
Respondent

Dated: as of September 15, 2014

\_\_\_\_\_/s/  
Stanley K. Schlein  
Counsel for Respondent

Dated: January 22, 2014

\_\_\_\_\_/s/  
Richard Briffault  
Chair  
NYC Conflicts of Interest Board