



WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

MEMORANDUM

To: Toby Feuer, City Commissioner, City of Weston

From: Jamie A. Cole, City Attorney, City of Weston

Date: March 13, 2017

Re: Ability of Elected Official to Accept Gift (Weston Philharmonic)
CAO: 17-W02 (Gift Reporting and Acceptance)

cc: City Commission
City Manager

You are the City of Weston's representative to the board of the Weston Philharmonic Society. The Weston Philharmonic Society will be recognizing you this year by presenting you with its Community Service award at the July 2017 Summerfest event. In the past, community service honorees have received a crystal vase, which you estimate to be worth approximately \$75. You wish to know whether you will be acted in accordance with state and local ethics laws if you accept this award from the Weston Philharmonic Society.

The Broward County Code of Ethics has incorporated the state statutory definition of the term "gift." (See Section 1-19(c)(1)(b)). Pursuant to Florida Statutes Section 112.312(12)(b)(4), if the "gift" is an award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service, it is not considered a gift.

In the instant case, the Weston Philharmonic Society is valuing your contributions to the community as a City Commissioner and a member of its board by presenting you with this community service award. The crystal vase is being given to you in recognition for your service to the community. Since the vase is not gift to you, because it is tied to your community service, there is no need to ascertain its actual value. Under the circumstances, the crystal vase would not be a gift under state law

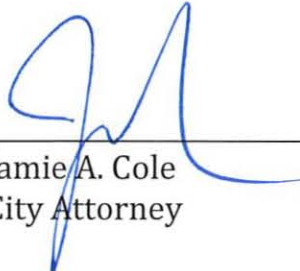
and you may accept it and there would be no reporting requirements under state or local law.

You also wish to know whether the Weston Philharmonic's 501(c)(3) tax exempt status would be in jeopardy if you receive an award in connection with the organization recognizing you for your community service. Although this matter is not covered by the state or local ethics laws, we are not aware of any restrictions prohibiting the Weston Philharmonic from honoring a local elected official who sits on its board.

This Opinion is provided pursuant to Subsection 8 of the County Ethics Code, which allows an Elected Official to request an advisory opinion about how the Code applies to his or her own situation. "Requests for opinions shall state all material facts necessary for the advising attorney to understand the circumstances and render a complete and correct opinion, and such facts shall be recited in the issued opinion." In addition, "until amended or revoked, an advisory opinion rendered pursuant to this section shall be binding on the conduct of the Elected Official covered by the opinion unless material facts were omitted or misstated in the request for advisory opinion. If the Elected Official acts in accordance with a binding advisory opinion, the Elected Official's conduct may not be found to be in violation of the Broward County Elected Official Code of Ethics. However, any opinion rendered under this section shall not be binding as to whether the Elected Official's action complies with state or federal ethics requirements."

Assuming that you have disclosed all pertinent facts to us, you may use this opinion as a "safe harbor" under the Broward County Ethics Ordinance should any questions arise concerning the Opinion provided herein.

If you need any additional guidance regarding this matter, please contact us.



Jamie A. Cole
City Attorney

Jamie Alan Cole

From: Toby Feuer <tfeuer@Westonfl.org>
Sent: Monday, March 06, 2017 5:14 PM
To: Jamie Alan Cole
Subject: Safe Harbor opinion

Dear Jamie

I sit on the board of the Weston Philharmonic Society as a the City of Weston Commission representative. I have been asked by the board to be this year's recipient of their Community Service award. The event is held at their "Summerfest" event sometime in July 2017. I always attend this event and pay for a ticket. However I do not know the value of the award, which in the past has been a crystal vase, (I was told approximately \$75.00).I need a safe harbor opinion if I am permitted to accept this award. Also I have been asked for an opinion if because I am a Weston elected official does this effect the Philharmonic Society 501(c)3 status.

Thank you
Commissioner Toby Feuer

Sent from my iPad



Toby Feuer
City Commissioner
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