

City Attorney's Communication #2017-630
May 5, 2017

The Honorable Mayor Lamar Fisher
City of Pompano Beach
100 W. Atlantic Boulevard
Pompano Beach, Florida 33060

Dear Mayor Fisher:

You have asked for a legal opinion as to whether without paying compensation you would be allowed to attend, on behalf of the City of Pompano Beach, the Broward League of Cities 60th Annual Installation Gala on June 3, 2017. You advised that the city has purchased a ticket to the event so that you may attend the event as part of your duties as Mayor of the city.

It is my opinion that you are allowed to attend such an event without paying compensation as the event is associated primarily with your employment and, therefore, not considered a gift in accordance with Florida Statute §112.312. If your attendance were a gift, you would have to pay appropriate compensation to attend.

Section 1-19(b) of the Broward County Code of Ethics ordinance provides as follows:

All operative words or terms used in this Code not defined herein shall be as defined, in order of priority in the event of inconsistency, by Part III of Florida Statutes Chapter 112.

The Broward County Code of Ethics does not provide a definition for the meaning of a "gift" and therefore we must look to the definition provided for in the Florida Statutes.

Pursuant to Florida Statute §112.312(12)(b) "Gift" does not include:

- 1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.*

Since city officials across Broward County will be attending this event and you would be attending this event on behalf of Pompano Beach in a representative capacity to further the promotion and business interests of the city, any benefit received is not considered a gift, no compensation would be due to the City for attending the event and thus there could be no violation of the gift provisions of the Broward County Ordinance.

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It is also my opinion due to the uniqueness of this event that it would be somewhat irregular for you in your capacity as Mayor to attend the annual evening dinner gala on the city's behalf, attended by most all other elected officials and their spouses in Broward County, without your spouse. Thus, if the city, in reliance of its longstanding policy wishes to pay for the Mayor's spouse's ticket for an event of this nature, then same would not be in violation of Broward County's gift law. However, under state law the purchase by the city of your spouse's ticket would likely be considered a "gift" from the city. As the value of said ticket exceeds \$100.00, you will be required to execute and complete Form 10, Annual Disclosure Statement, as required by Florida Statutes by July 1. We will assist you in obtaining the form your use.

Please do not hesitate to contact me should you require any additional clarification about the opinion rendered herein.

Sincerely,

MARK E. BERMAN
City Attorney

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