



Memorandum

To: Assistant Deputy Mayor Lawrence A. Sofield
From: Kimberly A. Kisslan, City Attorney *KAK*
Date: November 1, 2017
Re: City of Sunrise/Elected Official Code of Ethics – Advisory Opinion 2017-07

The City of Sunrise is a member of The Greater Sunrise Chamber of Commerce. The Greater Sunrise Chamber of Commerce has invited its members to the Yard House Preview Party, a cocktail-style event on December 9, 2017 wherein guests are able to sample some of Yard House's signature menu items prior to the grand opening. The Greater Sunrise Chamber of Commerce email states: "Another great benefit for members of The Greater Sunrise Chamber of Commerce" and invites you and 1 guest. Yard House is a restaurant owned by Darden.

You have asked for an advisory opinion as to whether attendance by you and your wife at the Yard House Preview Party would result in any disclosure or reimbursement obligation.

City staff have reviewed their records. The Greater Sunrise Chamber of Commerce is a tenant of the City via an executed Lease. Prior County advisory opinions have recognized that a Chamber of Commerce may be a vendor or contractor (CAO 12-40E regarding Lauderdale by the Sea Chamber of Commerce) and that even if the Chamber of Commerce is not a vendor or contractor, that the Chamber of Commerce is comprised of various organizations and business entities seeking to do business with the County and therefore gifts from the Chamber would be reimbursable (CAO 12-30E Pompano Beach Chamber of Commerce).

Your request did not include the cost per person of food and beverages for the event. Pursuant to Florida Statutes section 112.3148(7), the total cost of the event (food, beverages, entertainment, etc.) shall be prorated among all invited persons.

It is my opinion that attendance by you and your wife at the Yard House Preview Party (a) may create a reimbursement obligation under state law depending on the cost per person for 2 guests, and (b) that attendance by you and your wife creates a reimbursement obligation under Broward County's Elected Official Code of Ethics for any amount in excess of \$5. As you must comply with the strictest law, this means you would have to reimburse The Greater Sunrise Chamber of Commerce for any value over the \$5 allowable the Elected Official Code of Ethics. The basis for my opinion follows.



State Law: Florida law requires reporting of gifts worth over \$100 on a Form 9 Quarterly Gift Disclosure. Florida law prohibits the acceptance of gifts worth over \$100 from lobbyists or vendors. Section 112.3148(4), Fla. Stat. A vendor is defined in state law as "a business entity doing business with an agency, such as renting, leasing, or selling any realty, goods, or services." Section 112.3148(2)(f), Fla. Stat. The Greater Sunrise Chamber of Commerce leases space from the City and would be considered a vendor under state law. Provided the cost per person for 2 persons is less than \$100, then you may accept the gift without disclosure or reimbursement. However, the donor may have an obligation to report the gift under Florida Statutes § 112.3148(5)(b). In the event the cost per person for 2 persons is valued at more than \$100, you must pay down the value of the gift to \$100 within 90 days of receipt of the gift and you have no disclosure obligation.

Broward County: Section 1-19(c)(1) of the Elected Official Code of Ethics contains certain restrictions on the acceptance of gifts. Elected officials are prohibited from accepting gifts with a value in excess of \$5 from lobbyists, principals of lobbyists, vendors or contractors. Under Florida law, "gifts" do not include anything for which equal or greater consideration is given by the recipient within 90 days. Section 112.312(12)(a), Fla. Stat. While The Greater Sunrise Chamber of Commerce is not a vendor under the Elected Official Code of Ethics, their lease makes them a contractor as defined in the Elected Official Code of Ethics. Under the Elected Official Code of Ethics, you are permitted to accept a gift from a contractor up to a maximum value of \$5 provided you reimburse the value of the gift over \$5 within 90 days. No disclosure is required.

City Ethics Code: Section 10-20 of the City's Code has a \$25 gift limitation where the gift was intended to influence an employee in the performance of his official duties or was intended as a reward for any official action on his part. This limitation, however, does not apply to ceremonies or social gatherings at which meals are consumed and to which 25 or more persons have been invited. As The Greater Sunrise Chamber of Commerce has more than 25 members, and this gift was extended to all of its members, the 25 or more persons requirement has been met. There is no indication the gift was made to influence you or reward you, and I do not see a prohibition to you accepting the gift under City Code. It is not reportable under City Code.

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Elected Official Code of Ethics and may be relied upon by the individual who made the request for purposes of the Broward County Elected Official Code of Ethics. It is limited to the facts and based on the assumptions set forth in this opinion. In the event any of the facts or assumptions are not accurate, please provide me with correct information.

I will provide a copy of this advisory opinion in a searchable "pdf" format to ethicsadvisoryopinions@broward.org within 15 days to ensure your compliance with Section 1-19(c)(8)c. of the Elected Official Code of Ethics.