

Memo

To: Scot Sasser, Mayor, Town of Lauderdale-By-The-Sea

From: Susan L. Trevarthen, Town Attorney
Robert A. Meyers, Assistant Town Attorney

Cc: Bud Bentley, Town Manager

Date: December 7, 2017

Re: VFD Holiday Party
Town Attorney Opinion (TAO): 17-2 (Gifts)

Facts: The Volunteer Fire Department of the Town of Lauderdale-By-The-Sea (“VFD”) will be holding a holiday party at the W hotel in Fort Lauderdale. The VFD invited up to ten representatives of the Town to attend and the Town has asked you to represent it at the party, and indicated that your spouse is also welcome to attend. You would like to attend this dinner with your spouse. The VFD invitation states that the cost per person of the party is \$91.

Questions: You wish to know whether you may attend the VFD Holiday Party in your official capacity. You also wish to know what are the considerations under the ethics laws should your spouse attend this dinner party with you.

Analysis:

Section 1-19(c)(1) of the Broward County Code of Ethics sets forth the applicable standards for the acceptance of gifts by elected public officials in Broward County and establishes caps on gifts, depending on the source. Generally, an elected official is not permitted to accept a gift in excess of \$50 if the gift is offered to them in their official capacity. However, the \$50 gift limitation on an “official capacity” gift does not apply when a government entity is giving a gift to its own elected official. In the instant case, the invitation to attend the dinner is coming from Town. Consequently, this amounts to a gift from a government entity and is not capped. Under the circumstances, you may attend the dinner party and have no reporting requirements under the law.

Although there are no reporting requirements for you to attend the dinner party, you have also inquired as to the relevant rules pertaining to your spouse's ticket. For purposes of the gift laws, a guest who is not a public official is generally not bound by the local or state gifts rules or the limitations enumerated therein. In other words, a gift that would be limited if accepted by an elected official carries no such limitations when utilized by the guest of the elected official. However, the gift to the guest is considered a gift to the elected official, creating responsibility for the elected official to comply with the reporting requirements, which would be triggered if the gift to the guest is valued in excess of \$100.

In order to determine whether you are obligated under the law to report the gift to your spouse, we must calculate its value. The VFD invitation specifies that the value per person is \$91. Assuming this estimate is accurate, you will not be required to report the gift to your spouse. Please understand if the estimate is inaccurate and the cost exceeds \$100, this has no bearing on your spouse's attendance. Regardless of the cost of the dinner party, she may attend, but you would be mandated under state law to report her gift if it were to exceed the \$100 threshold.

Answer: Since the Town invited you to attend the VFD holiday dinner, the \$50 gift limitation placed on you as an elected official in Broward County does not apply to you because gift is from your governmental entity. Furthermore, there are no restrictions prohibiting you from having your spouse accompany you to this event. Because the event is valued at \$91 per person, you will not be required to report the gift received by your spouse; reporting is only required if the gift is worth in excess of \$100.

Limitations: Assuming that you have disclosed all of the pertinent facts to us, you may use this opinion as a "safe harbor" under the County Ordinance should any questions arise concerning the Opinion provided herein. If you need any additional assistance regarding this matter, please contact us.

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."