



# WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

## Memorandum

To: Daniel J. Stermer, Mayor  
Margaret Brown, Commissioner  
Byron L. Jaffe, Commissioner  
Thomas M. Kallman, Commissioner  
Mary Molina-Macfie, Commissioner

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

Date: January 2, 2019

Re: Areawide Council on Aging Installation Dinner  
CAO : 19-W01 (Gift Acceptance and Reporting)

CC: City Manager

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The City of Weston is being recognized by the Areawide Council on Aging of Broward County (the "Agency") at its 39<sup>th</sup> Annual Board and Advisory Council Installation Dinner on January 17, 2019 for ten years of charitable contributions. We have been advised that the price for a table for ten for this event is normally \$1,000, with the per person cost for each meal being \$68.75 (the remainder of which constitutes a charitable contribution). The Agency has allowed the City to purchase a table for ten for a total cost of \$687.50 (so that the purchase by the City does not include a charitable contribution, which would be prohibited or limited by the City Charter and Code). Each member of the Commission will attend the dinner. Three of the elected officials will bring their spouses to the function and a fourth commissioner will attend with a guest. You wish to know whether the gift provisions set forth in state and local law allow you (and your spouses or guests) to attend and whether there are applicable reporting and/or reimbursement requirements per state or local law.

Section 1-19(c)(1) of the Broward County Ethics Ordinance contains 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 from a person who is not a vendor or lobbyist 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 governmental entity is giving a gift to its own elected official. In the instant case, the City is

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purchasing the table and the City's officials are accepting the gift from the City. Consequently, this amounts to a gift from a government entity and is not capped. Under the circumstances, you may attend the dinner and have no reporting requirement under the law.

Although there are no reporting requirements for you to attend this event, you have also inquired as to the relevant rules pertaining to your spouse or guest who will accompany you to this function and will not be paying to attend. For purposes of the gift rules, a guest who is not a public official is generally not bound by the local or state gift rules or the limitation enumerated herein. However, the gift to your spouse or guest from the City is considered a gift to you as an elected official, creating responsibility for you to comply with the State's reporting requirements, which would be triggered if the gift to your guest is valued in excess of \$100.

As noted above, the price for a table of ten is normally \$1,000.00, of which \$687.50 is the cost for the food and the remainder is a charitable contribution. It should be noted that even in cases where a party purchases a ticket at full value that includes a portion dedicated to the charitable organization, the amount directed to the charity is not part of the calculation when analyzing the value of the gift. Since the cost of the meal per person is \$68.75 (under the \$100 threshold), your spouse/guest may attend and you do not have to report his/her meal because the gift's value does not exceed \$100.

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.



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Jamie A. Cole  
City Attorney