



WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

Memorandum

To: Mary Molina-Macfie, Commissioner

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

Date: May 2, 2022

Re: CAI Annual Conference
CAO: 22-W01 (Gift Acceptance and Reporting)

cc: Don Decker, City Manager

You are a board member of the Community Association Institute (“CAI”), which monitors state legislation, educates lawmakers and protects the interests of community associations on behalf of CAI. You have been a member of this organization for approximately twenty-five years, predating your election as a City of Weston commissioner. The CAI Annual Conference will be held in Orlando, Florida this year from May 4-7. As board member, your conference expenses (including travel and meals) will be paid for by of the Southeast Florida Chapter of CAI. You wish to know whether, and if so how, the gift provisions set forth in state law and local law apply.

Section 1-19(c)(1) of the Broward County Ethics Ordinance examines the applicable standards for the acceptance of gifts by elected public officials in Broward County and establishes caps on gifts, depending on the source. Section 1-19(c)(1)(a) prohibits elected officials and their spouses from accepting gifts greater than \$5 (subject to several exceptions) from registered lobbyists, or from vendors, contractors, suppliers or potential suppliers of such government entity. I have confirmed with the City Manager, that the CAI is not a City lobbyist, contractor or vendor.

Section 1-19(c)(1)(b) states that elected officials may accept gifts from other source given to them in their official capacity up to a maximum of \$50 per occurrence unless one of the exceptions enumerated in ordinance exists. However, the \$50 limitation is not applicable if the gift is given to the elected official in his or her “personal (non-official) capacity.” Given the fact that the source of the gift is a professional association and is unrelated to your public service, it is treated as a personal capacity gift under the local ethics ordinance and the \$50 cap does not apply.

Mary Molina-Macfie, Commissioner
May 2, 2022
Page 2

Since the gift offered by CAI is not a prohibited gift under the local ethics ordinance, the next level of analysis is to determine whether there are any state reporting requirements tied to accepting the CAI travel expenses to attend the annual conference.

It should be noted that the local ethics ordinance incorporates the provisions set forth in state law with respect to the acceptance and reporting of gift. Pursuant to Section 112.312(12)(b)1, Florida Statutes, the term “gift” does not include: “[s]alary, benefits, services, fees, commission, gifts, or expenses associated primarily with donee’s employment, business, or service as an officer or director of a corporation or organization.”

In your particular case, expenses covered by CAI for you to attend the annual conference are related to your service to the organization as a board member. As a result, CAI may pay all your conference expenses. Moreover, since the expenses paid by CAI are not considered a “gift” under Florida law, you have no obligation to report the value of this gift.

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 Cole

Jamie A. Cole
City Attorney