



Palm Beach County Commission on Ethics

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September 6, 2011

Mark C. Hall, Chief of Police
Palm Springs Police Department
230 Cypress Lane
Palm Springs, FL 33461

Re: RQO 11-052
Gift Law

Dear Chief Hall,

The Palm Beach County Commission on Ethics (COE) considered our request for an advisory opinion, and rendered its opinion at a public meeting on August 4, 2011.

YOU ASKED in your email dated July 15, 2011 whether an offer of a 15% discount for all Palm Springs Village employees by the Friendly's Restaurant located within Palm Springs violates the Palm Beach County Code of Ethics.

IN SUM, the Friendly's Ice Cream, Inc. franchise located in Palm Springs is not a vendor, lobbyist, principal or employer of a lobbyist, lobbying or transacting business with the Village of Palm Springs (the Village). A discount to all similarly situated government employees does not violate the Palm Beach County Code of Ethics, provided that no "quid pro quo" or other benefit is offered or accepted because of any official public action taken, or legal duty performed or violated, by a public official or employee.

THE FACTS as we understand them are as follows:

You are the Chief of the Palm Springs Police Department. It has come to your attention that the local Friendly's Restaurant (Friendly's) is offering a 15% discount for food and beverages to all public employees of Palm Springs. Friendly's is a franchise of Friendly's Ice Cream, Inc. and is neither a vendor nor a lobbyist of Palm Springs. The 15% discount is an advertised offer and you have indicated there is no return consideration contemplated on the part of Palm Springs employees.

THE LEGAL BASIS for this opinion may be found in the following sections of the revised Palm Beach County Code of Ethics.

Section 2-444(g) defines a gift as the transfer of anything of economic value. A discount has economic value; therefore, the total amount discounted would be considered a gift under the code. Section 2-244(a) prohibits a public employee from soliciting or accepting, directly or indirectly, "a gift with a value of greater than one hundred dollars \$100 in the aggregate for the calendar year from any person or business entity that ...is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or

leases to the...municipality." Since Friendly's is neither a vendor nor employer or principal of lobbyists within Palm Springs, this prohibition would not apply.¹

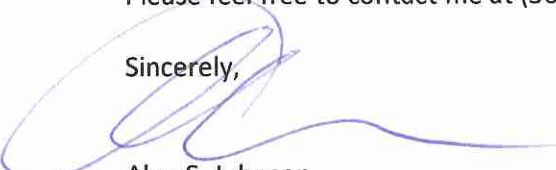
Section 2-444(e) prohibits the acceptance of any gift, for any amount, because of an official public action, or the performance, non-performance or violation of a legal duty. Therefore, there can be no official action or "quid pro quo" on the part of a public employee in exchange for the Friendly's discount. Lastly, apart from the gift law prohibitions, section 2-443(a) of the code prohibits any use of official position or office that will result in a special financial benefit, not shared with similarly situated members of the general public, for the public employee, as well as relatives, outside economic interests and non-profit organizations in which the public employee is in a leadership position. Accepting a discount under the facts submitted here does not, per se, amount to a "use" of official position or office.

IN SUMMARY, based on the facts you have submitted, public employees and officials are not prohibited from accepting a discount from a local restaurant that is not a vendor, employer or principal of a lobbyist doing business with or lobbying their municipal government so long as there is no "quid pro quo" or special privilege or treatment given to the restaurant in exchange for, or because of the discount.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson
Executive Director

ASJ/gal

¹ RQO 11-007 (off-duty attendance by town public safety employees and town officials where they received lunch and complimentary use of facilities in appreciation for their service from a non-vendor/lobbyist was not prohibited provided there was no "quid pro quo" in exchange for the gift)