



Palm Beach County Commission on Ethics

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September 6, 2011

Amy Stepper, Recreation Supervisor
4404 Burns Road
Palm Beach Gardens, FL 33410

Re: RQO 11-072
Misuse of Office/Gift Law

Dear Ms. Stepper,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion, and rendered its opinion at a public meeting on September 1, 2011.

YOU ASKED in your email of August 22, 2011 whether as the supervisor of the GardensArt Program for the City of Palm Beach Gardens, you may receive compensation from the Northern Palm Beach County Chamber of Commerce for selecting artists to participate in its 27th annual ArtiGras Fine Arts Festival.

IN SUM, you are not prohibited from serving as a juror for annual ArtiGras Fine Arts Festival. While judging this event is related to your public position as supervisor of the GardensArt Program, you have been asked to participate because of your personal experience and proficiency in this area. Your participation will be on your personal and not public time. Moreover, by participating in this program you will have the opportunity to be exposed to innovative local artists, in turn benefiting the City's art program.

THE FACTS as we understand them are as follows:

You are the supervisor of the GardensArt Program (the GAP) for the City of Palm Beach Gardens (the City). The GAP exhibits the work of professional artists and photographers in rotating exhibits and provides residents and employees of the City with the opportunity to experience high quality artwork as part of their everyday participation in local government. The GAP has initiated several partnerships with local arts organizations and businesses including membership in the North Palm Beaches Cultural Alliance (Cultural Alliance). The Northern Palm Beach County Chamber of Commerce (the Chamber) contacted Cultural Alliance members seeking jurors to select artists for the 2012 ArtiGras Fine Arts Festival (the Festival). The City is a member of the Alliance. The jury will consist of five "experienced art professionals" and jurors will receive a \$250 stipend in exchange for approximately 10 hours of work over two days. Meals will also be provided by the Chamber. Judging this event would give you the opportunity to review multimedia and traditional artwork from local and national artists and allow you to improve your art selection skills. Should you be selected for this opportunity, you will use vacation time when necessary and at no time will you be compensated by both the Chamber and the City.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Code of Ethics, which took effect on June 1, 2011:

Sec. 2-443 Prohibited Conduct

(a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a *special financial benefit, not shared with similarly situated members of the general public*, for any of the following persons or entities:

a. *Yourself*

You are being invited to judge this event because of your experience as an art professional, not as a result of your government employment. You did not actively use your official position in any way to solicit this opportunity and the stipend amount of \$250 is not an apparently excessive sum for your participation as a professional. Finally, you are not using city time or resources in participating in this event and your participation will in fact benefit your public employer. As a result, you are not prohibited from judging the event and may accept the \$250 stipend and meals from the Chamber.

Section 2-444(g) provides that a "gift" is anything of value without adequate or lawful consideration. Here, the value of your time in preparation for and attendance at the events is consideration for the stipend and meals. Accordingly, they are not "gifts" within the meaning of the code of ethics and are not reportable on your yearly gift reporting form.

IN SUMMARY, based on the information you provided, you are not prohibited from serving as a juror for the ArtiGras selection committee and accepting a stipend for your time and effort.

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/mr/gal