

Palm Beach County Commission on Ethics

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December 21, 2011

Debbie Blake, Community Center Manager
Mid County Senior Center
3680 Lake Worth Road
Lake Worth, FL 33461

Re: RQO 11-019
Gifts/solicitations

Dear Ms. Blake,

Your request for advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email dated December 19, 2011, whether Mid County Senior Center (the Center) employees may accept donations from Publix Supermarkets of bakery items, provided the items are used exclusively for senior citizen clients of the Center to be donated as prizes for bingo games.

IN SUM, based on the facts you have submitted, the code of ethics does not prohibit public employees from soliciting or accepting gifts in their official capacity provided they are accepted for use by the county for a public purpose. Use of contributed gifts exclusively for senior clients of the Center for bingo prizes and other purposes is therefore not prohibited.

THE FACTS as we understand them are as follows;

You are the senior center manager for the Mid County Senior Center (the Center), Palm Beach County Division of Senior Services. The Center provides educational and recreational services for seniors 55 and older and provides lunch and transportation through Palm Tran. Many seniors would be homebound all day without companionship were it not for this service provided by Palm Beach County. As Manager, you oversee the programs offered at the Center. A volunteer at the Center contacted a local Publix supermarket and arranged for the donation of bakery goods to the Center for the senior citizens. The donated goods are not used by county staff. All donations are used for the Center clients.

Among the events offered by the Center is bingo. As part of the services provided for seniors, county staff accepts the donations of bakery goods from Publix Supermarkets to be distributed as bingo prizes. You advise that the seniors "really enjoy these items plus the bread they receive." The Center's clientele includes a cross section of seniors, including significant minority participation. Economically diverse, the Center seniors include homeless, low income and high income individuals. All clients share in the benefit of these donations.

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 June 1, 2011.

2633 Vista Parkway, West Palm Beach, FL 33411 561.233.0724 FAX: 561.233.0735

Hotline: 877.766.5920 E-mail: ethics@palmbeachcountyethics.com

Website: palmbeachcountyethics.com

Section 2-444(a) prohibits a public employee from soliciting or accepting a gift of a value in excess of \$100, annually in the aggregate, from a vendor or lobbyist of their public employer. Publix supermarkets is a vendor of Palm Beach County. This prohibition extends to charitable donations made to employees or on behalf of employees of the government in most instances. However, §2-444(g)(1)e. specifically excludes *gifts solicited or accepted by county officials or employees on behalf of the county in performance of their official duties for use solely by the county for a public purpose* from the definition of gift. The COE has previously opined that this exclusion applies to county department initiatives where the donations were accepted by the government department and used to directly fund county programs.¹

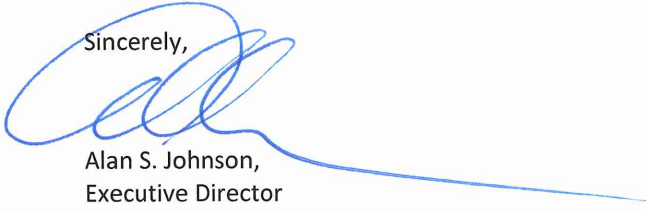
The manner, purpose and use of the bakery goods are consistent with the government use exemption to the gift law prohibitions of the code of ethics. Provided that these items are not solicited for the personal use or consumption by county employees, and no prohibited quid pro quo is given in exchange for these items, the code does not prohibit such a solicitation and acceptance.

IN SUMMARY, based upon the facts submitted, gifts solicited or accepted directly into a government department for use by that department in a public program or other public purpose, and not for the personal benefit of public employees or officials, are not prohibited under the code of ethics, provided that there is no unlawful quid pro quo involved in the transaction.

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 10-027 (donations to structurally improve a county aquatic center to protect Special Olympic participants), RQO 10-040 (solicitations to partially fund the county Drowning Prevention Coalition, a program of the Palm Beach County Fire Rescue Department)