



Palm Beach County Commission on Ethics

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March 2, 2012

Todd Blake, Battalion Chief
Palm Beach County Fire Rescue
15450 Jog Road
Delray Beach, FL 33446

Re: RQO 12-007
Gift Law/Holiday Gifts

Dear Chief Blake,

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

YOU ASKED whether unsolicited gift cards given by a homeowners association to the Palm Beach Fire Rescue (PBCFR) employees at a specific PBCFR station serving the residents in that area, which are then used by station personnel to purchase food items for preparing meals for on duty employees at the station, is either prohibited or reportable as a gift by the Gift Law portion of the PBC Code of Ethics. Additional information was obtained during telephone discussions between you and COE staff.

IN SUM, the Code of Ethics does not prohibit the distribution of unsolicited gift cards donated by residents of a homeowners association as a holiday gift to a particular PBCFR station for the collective use by its employees, where the gifts are not from vendors or lobbyists of their government employer, and are not in exchange for the past, present or future performance of an official act or legal duty or otherwise constitute a quid pro quo for an official action.

If the individual value of the gift per employee (total value divided by the number of employees) exceeds \$100, the gift must be reported by each individual employee pursuant to the requirements of the code of ethics.

THE FACTS as we understand them are as follows:

You are the Battalion Chief for Palm Beach Fire Rescue (PBCFR) and supervise fire rescue units in unincorporated Delray Beach. One of the PBCFR stations for which you have command authority, PBCFR Station #45, provides emergency fire fighting and rescue services for an area that includes homeowners and residents living in the Highpoint of Delray West development (Highpoint). The Highpoint Homeowners Association (the Association) is neither a vendor nor lobbyist of the county. The Association, on behalf of the residents of Highpoint, decided to send Publix gift cards totaling \$225 in value to Station #45 last December as a general holiday gift for Station employees. There was no solicitation by PBCFR employees made to the Association for these gift cards, and the gift cards were

sent as a holiday gift for the purpose of showing general appreciation for the station employee's overall service to this community.

Ultimately, the gift cards were used to purchase food from Publix to be used in preparing meals for on duty station personnel. In accordance with county policy, PBCFR emergency personnel generally consume their on duty meals at their assigned station, unless out on a call for service. There are twenty-four (24) employees assigned to Station #45, each working one of three (3) shifts that provide twenty-four hour emergency service coverage for the local community. The gift cards were split between the three shifts to use for purchasing food items. As the Battalion Chief you were unsure as to the requirements of gift disclosure under the PBC Code of Ethics, so you personally filed a Gift Form listing the \$225 gift cards, but listed "Station 45" as the actual recipient of the gift cards.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Code of Ethics:

Section 2-444(a)(1) of the Code of Ethics, prohibits PBCFR employees from accepting, directly or indirectly, gifts valued at more than \$100, annually in the aggregate, from any county vendor or lobbyist.

Section 2-444(a)(2) prohibits county vendors and lobbyists, or employers or principals of lobbyists from giving these prohibited gifts to persons they know are county employees, including PBCFR personnel.

Section 2-444(e) prohibits *any* person or entity from offering, giving or agreeing to give a gift of any value to any county or municipal official or employee, as well as prohibiting any official or employee from accepting or agreeing to accept a gift of any value, because of the performance or non-performance of an official act or legal duty. (Emphasis added)

Section 2-444(f), Gift reports, requires any official or employee who *receives a gift in excess of one hundred dollars (\$100)* to report that gift in accordance with the disclosure requirements of the Code.

And finally, Section 2-444(g), defines a gift as, "the transfer of *anything of economic value*, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, *without adequate and lawful consideration*. (Emphasis added)

The issue of accepting holiday gifts has been addressed in previous advisory opinions.¹ Unsolicited gifts that are not given for the performance of a specific public action or legal duty, but rather as a general expression of appreciation are generally not prohibited by the code, unless the gift is solicited from a vendor or lobbyist or the value exceeds \$100 and is given by a lobbyist or vendor of their public employer. If the gift is solicited, great care must be taken to ensure that no vendor or lobbyist is solicited.²

If the individual value of the disbursed gifts exceeds \$100 they must be reported in a manner as required by the code, however, because the gift was for the benefit of the entire station, the amount of

¹ RQO 11-103, RQO 11-110, RQO 11-111

² RQO 11-110

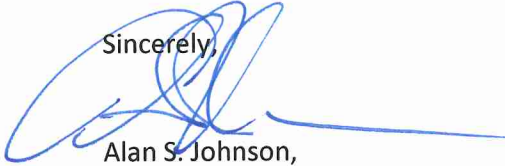
the benefit is divided among those who received a benefit. Under the circumstances you identified, the \$225 value would be equally divided among the twenty-four shift personnel, for an individual value of approximately \$9.38 per employee; therefore, the individual gifts are not reportable under the code.

IN SUMMARY, providing that the unsolicited gift cards given to PBCFR Station #45 are not based on any official act or legal duty or other quid pro quo arrangement, the Code of Ethics does not prohibit residents of the Association from donating Publix gift cards for the general use of employees of PBCFR Station #45 as a holiday gift. Because the individual value of the gifts does not exceed \$100, no gift report is required.

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/meb/gal