



Palm Beach County Commission on Ethics

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April 6, 2012

Mr. James Sugarman
West Palm Beach Library Foundation
411 Clematis Street, 3rd Floor
West Palm Beach, FL 33401

Re: RQO 12-024
Reportable Gifts

Dear Mr. Sugarman,

The Commission on Ethics (COE) considered your request for an advisory opinion and rendered its opinion at a public meeting held on April 5, 2012.

YOU ASKED in your email dated March 26, 2012 whether the West Palm Beach Library Foundation (WPBLF), a 501 (c) (3) non-profit organization, may give tickets with a face value in excess of \$100 to library employees to attend a WPBLF event.

IN SUM, you are not prohibited from distributing tickets to City library employees, so long as there is no *quid pro quo* or other special consideration, and the gift is not given for the past, present or future performance or non-performance of a legal duty or official action. If the face value of the ticket received by an employee is more than \$100, it must be reported pursuant to the reporting requirements of the code. Any additional gifts received at the event are likewise subject to the limitations and reporting requirements of the code.

The FACTS as we understand them are as follows:

The West Palm Beach Library Foundation (WPBLF) is a 501 (c) (3) non-profit organization established in 2000. WPBLF is independent of the City of West Palm Beach (the City). It raises funds to pay for certain library related expenses. As ongoing operational expenses are supported by West Palm Beach residents' tax dollars, WPBLF support provides furnishings and technology, acquisition and maintenance of books and other media collections, and library programming that are not covered by the library's budget.

WPBLF hosts annual fundraising campaigns, writes grants and proposals and holds events which raise awareness and funding for the Foundation and Library. The Foundation has an agreement with the City of West Palm Beach which includes the offering of "Naming Opportunities."

On April 14, 2012 the foundation will be hosting its "We Love Our Library Gala" event. Tickets have a face, or public, value of \$250. The WPBLF event cost per ticket is \$90. WPBLF would like to invite library

and city staff to this event. In addition, the WPBLF will provide votive candle holders, courtesy of Tiffany & Co., as gifts to guests at the event. Each candle holder has an approximate retail value of \$50 each. Tiffany's does not sell to, lease from, or lobby the City.

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

Sec. 2-444 (a) (1) prohibits a public official or employee from soliciting or accepting a gift of greater than \$100 in the aggregate for the calendar year from *"any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable."* A vendor is defined in §2-442 as follows.

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager, or employee.

WPBLF does not sell goods or services to the City, accordingly it is not a vendor and §2-444 (a) (1) does not apply.

Section 2-444 (g) defines a gift as *"the transfer of anything of economic value"* and §2-444 (f) requires employees and officials to complete an annual gift disclosure report, reporting any gift in excess of \$100 unless one of several exceptions apply. Generally, under state valuation rules, the value of a ticket to a charitable event, where a portion of the proceeds goes to charity, is the value expressed on the face of the ticket.¹ There is a specific exemption in state law regarding tickets provided directly by the charitable organization. In those circumstances, the value of the admission ticket only includes the cost of the event and not the portion of the face value which represents a charitable donation.² Ordinarily, this Commission will *consult, among other sources, section 112.3148, Florida Statutes and the Florida Administrative Code*, to determine the value of a gift, however, we are not mandated to do so.³ As permitted under state law, local ordinances may impose additional or *more stringent standards of conduct and disclosure requirements*.⁴ The Palm Beach County Code of Ethics emphasizes transparency and contains strict disclosure requirements in addition to vendor and lobbyist prohibitions against solicitation and acceptance of certain gifts. In fact, the code recognizes an exception to the gift law involving tickets *in connection with public events, appearances or ceremonies related to official county or municipal business, if furnished by a nonprofit sponsor organization*.⁵ Notwithstanding this exception, the value of such a ticket is reportable under this section. Recognizing the emphasis placed on vendor or lobbyist gift limitations and disclosure of regulated gifts to ensure transparency, we consider the appropriate valuation of such gifts to be the face value, or public value, of the tickets given by charitable organizations, and not the hard costs associated with the event.

¹ §2-444(g), §112.3148(7), Florida Statutes, §34-13.500(5), Florida Administrative Code.

² §112.3148(7)(k), Florida Statutes, §34-13.500(9)

³ §2-444(g)

⁴ §112.326, Florida Statutes

⁵ §2-444(g)(i)

Gala tickets valued at \$250 are a reportable gift and must be included on a city employees' annual gift reporting form. Candle holders valued at \$50 provided specifically by Tiffany & Co. as favors for event guests are neither prohibited, nor reportable as these gifts are below the \$100 reporting threshold.

IN SUMMARY, based on the information you provided, City employees and officials are not prohibited from accepting tickets and attending events hosted by the WPBLF. WPBLF is not a vendor as defined under the Code of Ethics and does not lobby the City. Where, as here, the per person face value of the tickets exceed \$100, they must be reported as required by the Code of Ethics.

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/mcr/gal