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Gifts
Tickets

Charter Sections: 2604(b)(2), (b)(3), and (b)(5)

Opinions Cited: 2000-4

Advisory Opinion No. 2006-2

An elected official has requested an opinion from the Conflicts of Interest Board (the "Board") as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, he may accept invitations from a registered lobbyist to attend receptions, dinners, and other special events held by clients of the lobbyist.

Background

The elected official has advised the Board that he has received a number of invitations to receptions, dinners, and other events, which include language implying that the lobbyist will absorb the cost of the ticket. The cost of each of these tickets, typically for charitable fundraisers, is well in excess of $50.00. The elected official has not yet

accepted any of these invitations, but has asked the Board for advice regarding the applicable conflicts of interest standards.

Applicable Law

Charter Chapter 68 contains several provisions relevant to the situation presented. Charter Section 2604(b)(2) provides that a public servant may not engage in any transaction, or have any financial or other private interest, which is in conflict with the proper discharge of his or her official duties.

Charter Section 2604(b)(3) provides that no public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

Charter Section 2604(b)(5) provides that no public servant shall accept any "valuable gift," *as defined by rule of the Board*, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the City, except gifts which are customary on family and social occasions. Board Rules Section 1-01(a) (Title 53, Rules of the City of New York) defines "valuable gift" to be a gift with a value of $50.00 or more and further states that two or more gifts from the same source during any twelve-month period shall be deemed to be a single gift.

However, Rules Section 1-01(g) permits a public servant who is an elected official, or a member of the elected official's staff authorized by the elected official, to attend a function given by an organization composed of representatives of business, labor, professions, news

media, or organizations of a civic, charitable, or community nature, ***when invited by the sponsoring organization***.

Moreover, Rules Section 1-01(f)(5) permits a public servant to be a guest at any function or occasion, if the attendance of the public servant has been approved in writing as in the interests of the City, in advance where practicable or within a reasonable time thereafter, by the public servant's agency head or by a deputy mayor if the public servant is an agency head.

Discussion

In Advisory Opinion 2000-4, at page 10, the Board ruled as follows:

> it would not violate Chapter 68 for the elected official, or a member of his staff authorized by him, to attend, **as part of his official duties**, a function of an organization composed of representatives of business, labor, professions, news media, or organizations of a civic, charitable, or community nature, *when invited by the sponsoring organization*, regardless of the price which the public may be charged for a ticket to the event, and regardless of whether his office provides funding for that organization. See Rules Section 1-01(g) [footnote omitted]. In addition, when the sponsoring organization is not of the type described in Rules Section 1-01(g), or when the invitation does not come from the sponsoring organization (*e.g.*, when some other entity buys the ticket and gives it to the elected official), such attendance, in the public servant's official capacity, will nevertheless likewise not violate Chapter 68, provided that it has been approved in writing as in the interests of the City by the attending employee's agency head. See Rules Section 1-01(f)(5). [Italics added; other emphasis in original.]

Thus, where the gift of complimentary tickets to a public function comes not from the event's sponsor but from a third party (such as the lobbyist in the instant case), the exemption granted by Rules Section 1-01(g) will *not* apply. The elected official's attendance will nevertheless not violate Chapter 68 if the agency head certifies in writing pursuant to Board Rules Section 1-01(f)(5) that his attendance is in the interests of the City.

The Board cautions, however, that the above-cited exceptions to the ban on accepting valuable gifts permit only *attendance* at these events and the associated complimentary meals and refreshments. Acceptance of other gifts, whether in the form of "gift bags" at a charitable dinner or the sporting paraphernalia sometimes offered at athletic events, does not fall within these exceptions. Such gifts may be accepted only if their *aggregated annual* value is less than $50.00. See Board Rules Section 1-01(a).

Conclusion

An elected official may accept a complimentary ticket to a dinner, reception, or other function, where the ticket is a gift from a person, such as a lobbyist, who is not the sponsor of the function, only where the agency head certifies in writing that the attendance is in the interests of the City. Even where attendance is permissible, however, the elected official may not accept gifts of items (such as gift bags) valued at $50.00 or more in the aggregate from the same donor or affiliated donors during a twelve-month period.

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Dated: April 10, 2006

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