

ETHICS OPINION
Office of the City Attorney

TO: Commissioner Joy Carter

FROM: John J. Hearn, City Attorney
Andrew B. Dunkiel, Assistant City Attorney

RE: Charitable Contribution Fundraising Disclosure/Facebook

DATE: August 31, 2016

You have asked if you must complete a Charitable Contribution Fundraising Form if a charitable organization has “tagged” you on Facebook. In this particular case, the charitable organization is not asking you to donate or to take any action. Sometimes charitable organizations do ask for you to take action. If these facts are incorrect or inaccurate in any way, please let us know since it may affect the opinion that we give.

The Broward County Code of Ethics provides that Municipal Elected Officials may solicit funds for a “nonprofit charitable organization, as defined by the Internal Revenue Code. . . so long as there is no quid pro quo or other special consideration, including any direct or indirect benefit between the parties to the solicitation.” Section 1-19(c)(5)a.1., County Code of Ordinances. Black’s Law Dictionary defines solicitation as, “[t]he act or an instance of requesting or seeking to obtain something.” The Code further provides that any such solicitation must be disclosed on a form filed for public inspection as created by the Broward County Attorney’s Office. The disclosure includes the name of the charitable organization, the event for which the funds were solicited, and the name of any individual or entity that requested that the Elected Official engage in the charitable fundraising solicitation. Section 1-19(c)(5)a.2., County Code of Ordinances. The disclosure form is available in our City Clerk’s Office.

According to Facebook, a person may unilaterally link or “tag” a post to another person’s profile.¹ You can hide “tags” from your timeline or “untag” yourself.

Here, nonprofit organizations are unilaterally linking their posts to your profile. If a nonprofit charitable organization does not ask for something and “tags” you in a post, you are not requesting or seeking to obtain funds on behalf that organization. Therefore, you do not need to fill out a disclosure form in that instance. Similarly, if a nonprofit charitable organization unilaterally “tags” you and asks for you to take some action, such as the donation of funds, you are not requesting or seeking to obtain funds on behalf of the nonprofit charitable organization. However, if you “share” or otherwise take some other affirmative action to support the request for contributions to that organization, you will be required to fill out a disclosure form. In any event, and to avoid all doubt, we advise “untagging” or hiding “tags” from your profile if unilaterally tagged by a nonprofit charitable organization.

If you need additional guidance regarding this matter, please feel free to contact my office.

1. *What is tagging and how does it work?*, Facebook, <https://www.facebook.com/help/124970597582337>.