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September 23, 2016

Mayor Richard J. Kaplan
5581 West Oakland Park Boulevard
Lauderhill, FL 33313

Re: Legal Opinion

Dear Mayor Kaplan,

You have requested a legal opinion regarding the interpretation and application of a section of the Broward County Ethics code, as amended. Specifically, you have asked the following:

"Under the Broward Ethics Code Sec. 1-19 (c)(1) Acceptance of Gifts, a., provides for an exception for:

"For purposes of this paragraph, neither Broward County, any municipality within Broward County, or any other governmental entity shall be considered a registered lobbyist, a principal or employer of a registered lobbyist, or a vendor or contractor of any governmental entity within Broward County." (emphasis added)

My question is that there is no definition or other qualifiers as to what is meant as "any other governmental entity." Is this an entity of the prior named government (Broward County or a Broward County Municipality, or is it a Florida government entity, a US government entity (like another state or city outside of Florida, or a government entity outside of the US? If it is restricted to a specific group, which is contained within the Broward Ordinance itself, please cite the source for this opinion.

Also, the term "entity" as part of "government entity" does that mean solely that government or does it include those divisions or agencies of the "government entity?"

I am seeking this opinion specifically to know how to deal with Sister City Programs and activities that interconnect with foreign governments (e.x., receptions or events the

foreign government may be hosting locally as an example, but not limited to), both when they may travel to the US or if I should travel there.

As you correctly point out in the summary and questions above, the Broward County Ethics Code does not include a qualifier or definition for the phrase “any other governmental entity.” I therefore reviewed the definitions contained within the State of Florida Ethics Code. Section 112.312, Definitions, defines “Agency” as follows:

(2) “Agency” means any state, regional, county, local, or municipal **government entity of this state**, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district as defined in s. 189.012. (emphasis added)

The above cited definition limits agencies to governmental entities in the State of Florida. In my opinion, the Broward County Ethics Code cannot supersede or grant rights that are in conflict with state law.

I also reviewed the Florida Statute definition of gift. Section 112.312 (12)(a) defines “Gift” as the follows:

“Gift,” for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee’s behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee’s benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:

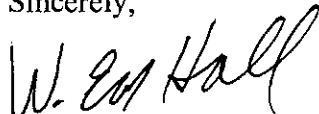
1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.
4. The use of tangible or intangible personal property.
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
6. Forgiveness of an indebtedness.
7. Transportation, other than that provided to a public officer or employee by an **agency** in relation to officially approved governmental business, lodging, or parking. (emphasis added)
8. Food or beverage.
9. Membership dues.

10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Plants, flowers, or floral arrangements.
12. Services provided by persons pursuant to a professional license or certificate.
13. Other personal services for which a fee is normally charged by the person providing the services.
14. Any other similar service or thing having an attributable value not already provided for in this section.

As the above definition makes clear, transportation is a gift unless provided by an **agency**. An agency is limited to government entities in the State of Florida.

In summary, it is my opinion that the Broward County Ethics Code must be interpreted and applied in a manner consistent with state law. The provisions of the Broward County Ethics Code cannot supersede or grant rights inconsistent with state law. As stated in the Florida Statute, an agency is defined as government entities in the State of Florida. Accordingly, the receipt of transportation, food and beverages are gifts if provided by an international or foreign government.

Sincerely,

A handwritten signature in black ink that reads "W. Earl Hall". The signature is written in a cursive, flowing style.

W. Earl Hall