

Memo

To: Mark Brown, Vice Mayor, Town of Lauderdale-By-The-Sea

From: Susan L. Trevarthen, Town Attorney
Robert A. Meyers, Assistant Town Attorney

Cc: Bud Bentley, Town Manager

Date: October 20, 2017

Re: United Way Mayors' Gala
Town Attorney Opinion (TAO): 17-1B (Gifts)

Facts: The United Way of Broward County is holding a Mayor's Gala on October 21, 2017. The event includes a cocktail reception, a dinner, entertainment and a live and silent auction. Proceeds from this event will benefit the United Way of Broward, a 501(c)(3) nonprofit charitable organization. The Town has purchased a table and you will be attending this event in your official capacity. A guest will accompany you to the gala.

Questions: You wish to know whether you may attend the United Way of Broward County Mayors' Gala in your official capacity if the value of gift is more than \$50. You also wish to know what are the considerations under the ethics laws should a guest attend this event with you.

Analysis:

Section 1-19(c)(1) of the Broward County Code of Ethics sets forth the applicable standards for the acceptance of gifts by elected public officials in Broward County and establishes caps on gifts, depending on the source. As a general rule, an elected official is not permitted to accept a gift in excess of \$50 if the gift is offered to them in their official capacity. However, the \$50 gift limitation on an "official capacity" gift does not apply when a government entity is giving a gift to its own elected official. In the instant case, the Town has purchased a table for its officials to attend. Consequently, this amounts to a gift from a government entity and is not capped. Under the circumstances, you may attend the event and sit at the table designated for Lauderdale-By-The-Sea and have no reporting requirements under the law.

Although there are no reporting requirements for you for your admission to the event, we must also advise you as to the relevant rules should you bring a guest to the event. For purposes of the gift laws, a guest who is not a public official is generally not bound by the local or state gifts rules or the limitations enumerated therein. In other words, a gift that would be limited if accepted by an elected official carries no such limitations when utilized by the guest of the elected official. However, the gift to the guest is considered a gift to the elected official, creating responsibility for the elected official to comply with the reporting requirements and would be triggered if the gift to the guest is valued in excess of \$100.

In order to determine whether you are obligated under the law to report the gift to your guest, we must calculate its value. We understand that the Town has purchased a table, entitling the Town to a certain number of seats at the gala. Under ordinary circumstances, the cost of the table divided by the number of seats yields the value of the gift per person. However, when a table is purchased to benefit a charitable organization, the portion of the cost for the table that is deemed a charitable contribution is subtracted from the table's cost. Once this deduction is taken, the remainder represents that real value of the gift.

We have reached out to the United Way of Broward to ascertain the breakdown of the cost of the table for the Mayors' Gala. Since we have not received this information from United Way at the present time, we cannot provide you with the actual value of the gift. Without such information, we cannot definitively state whether the gift to your guest will necessitate reporting on your part. Once we are in receipt of such information, we will amend the opinion accordingly. Most importantly, please be advised that no matter the value of this gift, the law permits you to bring a guest to the gala. The only issue is whether you would be mandated to report the gift. Once United Way provides us with the amount of the charitable contribution, if this amount results in a gift valued above \$100, you will have to report it by the end of the first quarter of 2018 (March 31, 2018). If charitable contribution portion going to United Way of Broward produces a gift to your guest worth \$100 or less, you will not be required to report this gift.

Answer: Due to the fact the Town purchased a table for the Mayors' Gala, the \$50 limitation placed on you as an elected official in Broward County does not apply to you because the Town is giving you the gift. Furthermore, there are no restrictions that prohibit you from having a guest accompany you to this event. You will, however, be required to report the gift received by your guest if and only if the gift is worth in excess of \$100.

Limitations: Assuming that you have disclosed all of the pertinent facts to us, you may use this opinion as a "safe harbor" under the County Ordinance should any questions arise concerning the Opinion provided herein. If you need any additional assistance regarding this matter, please contact us.

This Opinion is provided pursuant to Subsection 8 of the County Ethics Code, which allows an Elected Official to request an advisory opinion about how the Code applies to

his or her own situation. “Requests for opinions shall state all material facts necessary for the advising attorney to understand the circumstances and render a complete and correct opinion, and such facts shall be recited in the issued opinion.” In addition, “until amended or revoked, an advisory opinion rendered pursuant to this section shall be binding on the conduct of the Elected Official covered by the opinion unless material facts were omitted or misstated in the request for advisory opinion. If the Elected Official acts in accordance with a binding advisory opinion, the Elected Official’s conduct may not be found to be in violation of the Broward County Elected Official Code of Ethics. However, any opinion rendered under this section shall not be binding as to whether the Elected Official’s action complies with state or federal ethics requirements.”