



## Memorandum

**To:** Mayor Michael J. Ryan  
**From:** Kimberly A. Kisslan, City Attorney *KAK*  
**Date:** December 21, 2017  
**Re:** City of Sunrise/Elected Official Code of Ethics – Advisory Opinion 2017-08

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Yard House USA, Inc. ("Yard House") invited you to their December 9, 2017 grand opening to cut the ribbon. I had previously rendered Advisory Opinion 2017-07 to one of your colleagues. Contrary to the facts in that opinion, you have advised that your invitation was from Yard House; that this is not a Chamber of Commerce event; and that the Chamber of Commerce was unaware that their invitation to the City Manager was being forwarded to the Commission. The facts you have provided are:

The only additional consideration is this is not a chamber event. Yard House is having a grand opening and I was invited by Yard House, as is typical of a new business seeking to have the Commission present to cut the ribbon. For whatever reason the chamber is given a certain presence at the Yard House event. Moreover, I am pretty confident that Yard House will have a significant non-chamber presence, again as is typical of these type of ribbon cutting grand openings.

Presence by the Commission at the Yard House event is most certainly a matter of celebrating economic development and in or time of promoting the city support for new businesses. And, often one or more of the Commission is expected to speak to the crowd leading up to the ribbon cutting; those not speaking are recognized as a demonstration of city support for the capital investment and creation of jobs by [t]he new business.

Not entirely sure why the chamber sent the invite it did. I suspect the chamber was acting [as] a conduit to get its members out. Said another way, without the chamber invite, the commission would still be expected to attend if available and to perform the legitimate public purpose of celebrating the new business and demonstrating grateful recognition for the capital investment and new jobs as part of the ribbon cutting.

You have asked for an advisory opinion as to whether attendance by you at the Yard House grand opening ribbon cutting would result in any disclosure or reimbursement obligation, and your assistant has advised that food and beverages are valued at \$50 per person.

City staff have reviewed their records. Yard House is not a lobbyist, principal of a lobbyist, vendor or contractor of the City.

It is my opinion that attendance by you at the Yard House grand opening ribbon cutting: (a) does not create a reimbursement or disclosure requirement under State law; (b) is an



official capacity gift acceptable up to a maximum value of \$50 per occurrence under the County's Elected Official Code of Ethics; and (c) does not violate the City's Ethics Code. The basis for my opinion follows.

State Law: Florida law requires reporting of gifts worth over \$100 on a Form 9 Quarterly Gift Disclosure. Florida law prohibits the acceptance of gifts worth over \$100 from lobbyists or vendors. Section 112.3148(4), Fla. Stat. Yard House is not a lobbyist or vendor under State law. As the cost per person of \$50 is less than \$100, you may accept the gift without disclosure or reimbursement.

Broward County: Section 1-19(c)(1) of the Elected Official Code of Ethics contains certain restrictions on the acceptance of gifts. Elected officials are prohibited from accepting gifts with a value in excess of \$5 from lobbyists, principals of lobbyists, vendors or contractors. Yard House is not a lobbyist, principal of a lobbyist, vendor or contractor. Section 1-19(c)(2) of the Elected Official Code of Ethics provides that elected officials may accept gifts from other sources given to them in their official capacity, where not otherwise inconsistent with Chapter 112, Florida Statutes, up to a maximum value of \$50 per occurrence, and that official capacity gifts up to \$50 in value are deemed to be *de minimis*. The Elected Official Code of Ethics does not have a gift disclosure or reporting requirement. You would be allowed to accept an official capacity gift valued at \$50.

City Ethics Code: Section 10-20 of the City's Code has a \$25 gift limitation where the gift was intended to influence an employee in the performance of his official duties or was intended as a reward for any official action on his part. This limitation, however, does not apply to ceremonies or social gatherings at which meals are consumed and to which 25 or more persons have been invited. As Yard House has invited more than 25 persons, the 25 or more persons requirement has been met. There is no indication the gift was made to influence you or reward you, and I do not see a prohibition to you accepting the gift under City Code. City Code does not have its own reporting or disclosure requirement

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Elected Official Code of Ethics and may be relied upon by the individual who made the request for purposes of the Broward County Elected Official Code of Ethics. It is limited to the facts and based on the assumptions set forth in this opinion. In the event any of the facts or assumptions are not accurate, please provide me with correct information.

I will provide a copy of this advisory opinion in a searchable "pdf" format to [ethicsadvisoryopinions@broward.org](mailto:ethicsadvisoryopinions@broward.org) within 15 days to ensure your compliance with Section 1-19(c)(8)c. of the Elected Official Code of Ethics.