

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Thursday, October 07, 2010 3:32 PM
To: 'DWolpin@wsh-law.com'
Subject: INQ 10-173 Gift Disclosure Requirements

Mr. Wolpin,

In response to your query, below, under the County Code at Sec. 2-11.1 (e), city officers and employees may accept as gifts attendance at a private birthday party, hosted by a private citizen, and featuring the performance of a well-known entertainer. If the value of the gift is over \$100 per person, the officers and employees must report the gift by the end of the following quarter.

Gift disclosure is required for gifts over \$100 regardless of whether the gift is given directly to the individual officers and employees or is bundled as a gift of 20 tickets given to the city for the manager to distribute.

A city officer or employee may decline the gift and, instead, pay the donor the estimated value of admission or the portion of the value in excess of \$100. Under this scenario, the officer or employee would not be required to disclose the gift, since he/she did not accept a gift valued at more than \$100. There is no requirement that payment to the donor be forwarded to a charity.

The fact that the theater venue is owned by the city and being rented to the private citizen does not change the analysis.

If you have further questions, please feel free to contact me or Robert Meyers.

Sincerely,

Victoria Frigo, Staff Attorney
Miami-Dade County Commission on Ethics
Direct Phone: 305 350-0601
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 miamidade.gov

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From: David M. Wolpin [mailto:DWolpin@wsh-law.com]
Sent: Wednesday, October 06, 2010 3:26 PM
To: Meyers, Robert (COE)
Cc: David M. Wolpin
Subject: County Ethics Code Question

Hi Robert- I would appreciate your staff's guidance on the following :

One of our client Cities owns a small theater which is used for cultural and arts performances, but is also available for rental for private events if not in conflict with the primary performance schedule. A private citizen is arranging

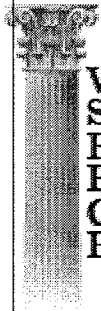
to rent the facility for an evening event for a birthday party which includes a performance by a well – known pop - rock star. The private person who is renting the facility has advised the third party manager of the facility that he would like to donate 20 seats at the event directly to the City . The Theater seats approximately 300 guests. It is likely that the cost to the donor, if calculated by the fee of the performer divided by the number of seats, may exceed a value of \$100 per seat. However, the admission pass for the seat is not proposed to be directly given to any city official or employee, instead the proposed donation is directly to the City entity.

If the City decided to accept the donation and distribute the 20 seats to the City's elected officials and to some City employees , would that constitute a reportable gift under Sec. 2-11.1 (e) of the County Ethics Code ? If so, would it be permissible for the officials and employees to accept such gift under the County Ethics Code, so long as reported under Sec. 2-11.1 (e) (4) ?

The City Manager would distribute the seat passes, if the donation is accepted. If the above course of action is not permissible, the offer of the seats would be respectfully declined or each City officer or employee accepting a seat would pay to the donor the value of the admission (calculated as described above) or at least that portion of the value which exceeds \$100 ,with an anticipated stipulation that said payment be donated to charity, so that no reportable gift would be received .

We would also independently examine compliance with Sec. 112.3148, F.S.

Thank you for your assistance.



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