

MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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July 13, 2023

Via electronic mail only to expedite delivery:
sbass@opalockafl.gov

Honorable Sherelean Bass
Commissioner
City of Opa-locka
215 North Perviz Avenue
Opa-locka, Florida 33054

Re: INQ 2023-85, Section 2-11.1(e), County Ethics Code, Gifts and Charitable Donations

Dear Commissioner Bass:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of Section 2-11.1, Miami-Dade Code, (“County Ethics Code”) to your proposed solicitation and acceptance of gifts on behalf of the City of Opa-locka in support of a municipally sponsored event for new or expecting parents and children.

Facts:

You are a Commissioner in the City of Opa-locka, Florida. In September of this year, you will be co-sponsoring a charitable event titled “Community Baby Shower.” The co-sponsorship is in your official capacity as an elected official, and you will be contributing municipal funds allotted to you as a Commissioner. The event is in celebration of National Baby Safety Month.

You will be soliciting and accepting donations for the event. These may include baby strollers and related items for young children and their families. Event decorations and other event services will also be solicited and accepted.

Your immediate family members may also donate items and your siblings, specifically, are planning to contribute items for the event.

Issue:

Whether a city commissioner may solicit and accept charitable donations for a municipally sponsored event titled “Community Baby Shower” in celebration of National Baby Safety Month, including donations from immediate family members.

Discussion:

Section 2-11.1(e)(3) of the County Ethics Code prohibits the solicitation or demand of gifts by elected officials and their staff.

Section 2-11.1 (e)(3) Prohibitions. A person described in subsection (b)(1) [mayors and commissioners] through (6) shall neither solicit nor demand any gift.

Of course, the solicitation or acceptance of a gift as part of a *quid pro quo* transaction as consideration for the performance or nonperformance of any official act is also prohibited.

There are two notable exceptions to the general gift solicitation ban. Commissioners are permitted to solicit gifts on behalf of their cities for use solely by the local government. Also, they may solicit donations on behalf of nonprofits, as long as the Commissioner does not receive compensation as a result. *See* Sec. 2-11.1(e)(2), Exceptions, County Ethics Code.

Prior Ethics Commission opinions regarding excepted solicitations are instructive.

The Ethics Commission has recognized that private donations and funds can be properly relied upon to support essential government functions and to promote government sponsored community programs and charitable causes and events which clearly serve a public purpose, including feeding or aiding those in need. *See generally* INQ 2020-134. ¹

The Commission has also approved solicitations for a specific purpose. For example, a city may receive sponsorship donations that will go to municipally hosted events (like a July 4th Celebration) but must avoid any implication of a *quid pro quo* regarding solicited vendors that agree to participate. INQ 16-160.

For other specific holiday functions or to aid residents in need, the Commission has concluded that accepting and immediately distributing the donated items to recipients is permissible under the Ethics Code. For example, it has approved of immediate distribution of donated turkeys or food items for less advantaged families, after donation. INQ 15-255.

The Ethics Commission recommends that local governments should adopt safeguards to avoid appearances of impropriety and to ensure that solicitation, acceptance, and use of private funds or donations are governed with the highest standard of ethics, transparency, disclosure and

¹ Gifts solicited and accepted in these scenarios do not require disclosure by the elected officials. *See generally* INQ 20-20.

accountability in these solicitation and funding processes. *See generally* RQO 02-70; INQ 13-70; INQ 19-124; INQ 2020-134.

Because businesses or persons that are solicited may feel compelled to donate because of the official's position, the soliciting official should be careful to avoid any appearance that he or she is using or attempting to use his or her official position to secure special benefits for others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted by the government's elected body. *See* Section 2-11.1(g) of the County Ethics Code.

Consequently, solicitations of donations from private businesses should be broad based. Officials are cautioned against direct solicitation of current or future local government vendors and contractors, while recognizing that these parties can be part of a larger solicitation that includes members of the general community. RQO 06-05.

Opinion:

There is no prohibition on your solicitation and acceptance of donations in support of a municipally sponsored event designed to provide support to new parents and children as part of a national infant safety recognition event.

You may solicit and accept donations from the greater community, nonprofits, private individuals and your family members, as long as objective and transparent solicitation and distribution methods are utilized and municipal vendors or other persons transacting with the city are not directly or exclusively targeted for donations.

Finally, donations solicited and accepted under these scenarios do not require disclosure by the elected official.

This opinion is limited to facts as presented to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

Thank you again for consulting with the Ethics Commission and please do not hesitate to contact me should you require any additional assistance.

Sincerely,



Jose J. Arrojo, Esq.
Executive Director

Burnadette Norris-Weeks, Opa-locka City Attorney (cityattorney@opalockafl.gov)

All COE Legal Staff

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.