



VILLAGE OF OAK PARK
LAW DEPARTMENT

MEMORANDUM

To: Honorable Mayor Anan Abu-Taleb and Board of Trustees
cc: Cara Pavlicek, Village Manager
From: Paul L. Stephanides, Village Attorney *Paul L. Stephanides*
Date: April 7, 2017
Re: Gift Ban Act

INTRODUCTION

This memorandum addresses the State of Illinois's Gift Ban Act, 5 ILCS 430/10-10 et seq., as it applies the Board of Trustees of the Village of Oak Park ("Village").

DISCUSSION

The Village has adopted the Gift Ban Act ("Act") as part of the Village Code. Oak Park Village Code at Sec. 2-25-9(N). This adoption is required by state statute. 5 ILCS 430/70-5.

The Act prohibits a Board member from intentionally soliciting or accepting "any gift from any prohibited source or in violation of any federal or State statute, rule or regulation." 5 ILCS 430/10-10. A "prohibited source" is defined any person or entity who:

- (1) Is seeking official action (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;
- (2) Does business or seeks to do business (i) with the member or officer or (ii) in the case of an employee, with the employee or with the member, officer, State agency, or other employee directing the employee;
- (3) Conducts activities regulated (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;
- (4) Has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, or employee;

(5) Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or

(6) Is an agent of, a spouse of, or an immediate family member who is living with a "prohibited source."

5 ILCS 430/1-5. The Village Code further adds that a present or future gift, favor or thing of value shall not be solicited, accepted or granted from or to a person involved in a Village "contract, legislative or administrative action, transaction, zoning decision, permit or licensing decision, or other matter, or from a person who would receive a material benefit, direct or indirect." Oak Park Village Code at Sec. 2-25-9(D)(4).

The Act contains the following exceptions to its prohibition:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the member, officer or employee pays the market value.

(3) Any (i) contribution that is lawfully made under the Election Code or under this Act or (ii) activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials and missions.

(5) Travel expenses for a meeting to discuss Village business.

(6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiance or fiancée.

(7) Anything provided by an individual on the basis of a personal friendship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the member, officer, or employee and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(ii) Whether to the actual knowledge of the member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(iii) Whether to the actual knowledge of the member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees.

(8) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.

(9) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer, member, or employee as an office holder or employee) of the officer, member, or employee, or the spouse of the officer, member, or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer, member, or employee, and are customarily provided to others in similar circumstances.

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to a member, officer, or employee of a State agency from another member, officer, or employee of the same State agency; and "inter-governmental gift" means any gift given to a member, officer, or employee of a State agency, by a member, officer, or employee of another State agency, of a federal agency, or of any governmental entity.

(11) Bequests, inheritances, and other transfers at death.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

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Each of the exceptions listed in this Section is mutually exclusive and independent of one another.

The Village has further restricted the \$100.00 gift limit set forth above to \$50.00. Oak Park Village Code at Sec. 2-25-9(D)(4)(a). The Act allows municipalities to more restrictive provisions than those contained in the Act. 5 ILCS 430/70-5.

CONCLUSION

The above describes the prohibitions regarding gifts as provided by State law and the Village Code. If you have specific questions, please do not hesitate to contact me.