

STATE OF NEW YORK: COUNTY OF SUFFOLK
SUFFOLK COUNTY ETHICS BOARD

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In the Matter of the Inquiry of

██████████

ADVISORY OPINION

No. AO-2013-12

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NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL. Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.

ADVISORY OPINION REQUEST

1. *Advisory Opinion Inquiry:* The Suffolk County Board of Ethics has received a request from a Suffolk County Legislator seeking an opinion as to whether it would violate the Suffolk County Code of Ethics for the Legislator to vacation at no cost at a pre-electoral friend's home. (*Requestor's Exhibit #1*)

2. *Conclusion:* Based on the facts before the Suffolk County Board of Ethics, it is the opinion of the Board that it would not violate §77-3(e) for the Legislator to vacation at no cost at ██████ pre-electoral friend's home.

GOVERNING AUTHORITY

3. The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Chapter 77, §77-3(e).

PROCEDURAL HISTORY

4. This Advisory Opinion was requested on 9/19/2013. (*Requestor's Exhibit #1*)
5. Fact Finding was concluded on 10/3/2013.
6. The Board voted on this Advisory Opinion on 10/9/2013.

STANDING

7. The Board determined that standing exists for this Advisory Opinion request due to the requestor's position as a public servant employed by the Suffolk County Legislature which mandates compliance with the Suffolk County Ethics Laws and based on proposed future conduct (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1*).

INFORMATION PRESENTED TO THE BOARD

8. The Legislator asserts [REDACTED] pre-electoral friend has offered [REDACTED] home in [REDACTED] at no rental cost for an upcoming weekend. (*Requestor's Exhibit #1*).

9. The Legislator asserts that that the pre-electoral friend is a [REDACTED] and may request permits from the County (*Requestor's Exhibit #1*).

10. The Legislator asserts that that the pre-electoral friend does not appear before the County Legislature (*SCBE Exhibit #1*).

11. The Legislator asserts that pre-electoral friend does not have any RFP's with the County and has no active bidding with the County (*SCBE Exhibit #1*).

12. The Legislator asserts [REDACTED] has no business dealings or financial interest with the pre-electoral friend (*SCBE Exhibit #1*).

APPLICABLE LAW

13. Suffolk County Code, Chapter 77 “Ethics and Accountability” provides, in pertinent part:

§ 77-3. PROHIBITED CONDUCT.

E. No public servant shall solicit or accept any gift having a value of \$75 or more from any person or firm which such public servant knows is or intends to become engaged in business dealings with the County.

§ 77-1 DEFINITIONS: BUSINESS DEALINGS WITH THE COUNTY.

Any transaction with the County involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, or any license, grant or benefit, and any performance with respect to any of the foregoing, but shall not include any transaction involving the public servant's residence or any ministerial matter.

OPINION AND CONCLUSION

14. The Board finds that under § 77-3(E), the Requestor is prohibited from, “*accepting any gift having a value of \$75 or more from any person or firm which such public servant knows is or intends to become engaged in business dealings with the County*”.

15. The Board further finds, that based upon the Requestor’s information provided to the Board, that the pre-electoral friend is currently engaged in “ministerial matters” under Suffolk County Code § 77-1 (*see also NYC COIB opinion 92-32 on ministerial matters*).

16. The Board further determined that as the pre-electoral friend is not, “*engaged in business dealing*” pursuant to the statutory definition, the value of the gift is not at issue before the Board under this advisory opinion request.

17. As set forth above, the Board finds that vacationing in a pre-electoral friend's home, who is not engaged in statutorily defined business dealings with the County, is not a gift from which the acceptance would be in violation of §77-3(e).

18. The opinion rendered herein, until and unless amended or revoked, is binding upon the Ethics Board in any subsequent proceeding concerning the person who requested it and who acted in good faith in reliance upon it, *unless material facts were omitted or misstated by the person in the request for the opinion* or in any related supporting documentation.

19. Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.

20. The forgoing is the opinion of the Board.

Dated: Yaphank, New York
October 10, 2013

Robin L. Long, Esq. - Chair