

TO: Greenburgh Town Supervisor
Greenburgh Town Clerk

CC: Greenburgh Town Council

ADVISORY OPINION 2021-1 Re: Acceptance of Donation

Background

On June 21, 2021, Chairperson Spinozzi received an email from Paul Feiner the Greenburgh Town Supervisor, which requested an advisory opinion from the Greenburgh Board of Ethics regarding a campaign contribution.

Mr. Feiner requested an opinion as to whether his campaign could accept a contribution from the Hon. Lester Adler, who at the time the contribution was made was a sitting member of the Greenburgh Zoning Board. The BOE was also advised that Mr. Adler has since resigned from the Zoning Board and returned to the Bench.

According to Mr. Feiner, he met Lester Adler in Edgemont and Mr. Adler said he wanted to make a contribution to Mr. Feiner's campaign. After receiving a check for \$150.00 Mr. Feiner realized that Mr. Adler was on the Zoning Board and he did not deposit the check. Mr. Feiner now seeks the advice of the BOE as to acceptance of the donation. Mr. Feiner states that the contribution "was not solicited"

Statutory Authority

As a member of the Zoning Board Mr. Adler was an "Agency Member" as defined under COE §570-3(A).

COE §570-4(A)(1)(b) states:

(b) No Elected Officer shall, directly or indirectly, solicit or accept any gift or item of personal or real property or any contribution or donation from any Appointed Officer or Employee, and no Elected Officer shall, directly or indirectly, solicit any gift or item of personal or real property or any contribution or donation from Agency Members.

The BOE notes that an Agency Member is not included under the first part of the section regarding *solicitation and acceptance* but **is** included under the second part relating to solicitation. The BOE accepts this distinction as intentional

COE §570-7(A)(1) states:

(1) No Public Officer or Agency Member shall, directly or indirectly, solicit or accept any contribution or money, services or thing of value for any political party, campaign committee or any Candidate from any Appointed Officer or Employee or from any Applicant or from the Affiliates of any Appointed Officer or Employee or Applicant or from an Applicant's lawyer, law firm or other legal representatives or professional consultants or their respective Affiliates.

The BOE once again notes that an Agency Member is not included in the prohibited class.

COE §570-7(D) states:

*D. Nothing contained in this chapter shall prohibit any Public Officer, Employee or Agency Member from holding or expressing a political opinion or from affiliating with any political party or organization of her/his choice, or from Elected Officials and **Agency Members voluntarily and without solicitation making a contribution thereto or to a Candidate.** [Emphasis added]*

The BOE notes that an Agency Member is specifically included in this section.

Opinion

The BOE notes that the issue of solicitation and or acceptance of Campaign contributions from Agency Members has been addressed on a number of occasions including Opinions: 2010-3, 2010-4, 2010-4B, 2013-5, 2020-2. With regard to Mr. Feiner's request it is the opinion of this Board that Mr. Feiner may accept the unsolicited contribution from Mr. Adler. Mr. Adler's resignation from the Zoning Board since the contribution was made is not relevant to this opinion. The sections of the code referred to above do allow for the acceptance of an unsolicited contribution from an Agency member.

Please note that this opinion is based on the facts as presented and stated above.

BY THE BOARD OF ETHICS

This written opinion adopted at July 22, 2021 meeting

Voting for:

Mr. Spinozzi, Chairperson

Mr. Hays

Ms. Pizzuti

Note: At the June 24, 2021 meeting Ms. Holand and Mr. D'Allessandro also joined in the finding above.