

*City of Detroit Board of Ethics*

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**Advisory Opinion #2018-01**  
**Issued: May 11, 2018**

**Advisory Opinion #2018-01:** The Ethics Ordinance bars the Requestor, who is a public servant, from receiving a gift from the vendor, who was doing business with the City of Detroit. The circumstance of the gift giving meets no exception enumerated in Sec. 2-106.4. - Gifts and Gratuities prohibition.

**I. Procedural Background**

Request for Advisory Opinion #2017-08 (the “Request”), is dated January 9, 2018, and was hand delivered to the Board of Ethics (the “Board”). The Request was submitted by a current public servant as defined by Section 2-6-3 of the Detroit Ethics Ordinance (the “Ordinance”), who did not waive confidentiality with respect to identity.

At its meeting on January 16, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-6-101 of the Ordinance. On February 20, the Board reviewed a Preliminary Analysis of the Request. After consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant to Section 2-6-104(B)(4) of the Ordinance.

**II. Facts Alleged In the Request**

In the Request, the Requestor states in summary as follows:

The study was facilitated by XYZ (a marketing research firm)\* for social media\* and they were very impressed with our facility; customer service; and commitment to the community. They gladly paid the rental fee and

provided lunch for their clients and made a donation to the programming. I learned that a gift certificate was sent to me to receive a massage as a thank you. I never received the gift certificate, however, I was contacted by a spa in Southfield. I never returned the call because I wasn't sure if that would be consider an ethical violation.

Of course, I was speechless and do not want to accept anything that I am not entitled to accept. I am therefore, deferring to Board of Ethics for review.

By this request, the Public Servant seeks an advisory opinion as to the applicability of the 2012 Detroit City Charter.

### **III. Applicable Charter Sections**

This Request involves Section 2-106.4 of the 2012 Detroit City Charter codified at Section 2-6-71. It states as follows:

Sec. 2-106.4. - Gifts and Gratuities.

A Public Servant shall not accept gifts, gratuities, honoraria, or other things of value, as determined by ordinance, from any person or company doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the Public Servant's official duties, or is registered as a lobbyist under applicable laws.

This prohibition shall not apply to:

1. An award publicly presented to a Public Servant by an individual, governmental body or nongovernmental entity or organization in recognition of public service.
2. Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials.
3. A gift received from a Public Servant's relative or immediate family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this article.
4. Admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the Public Servant:
  - i. By the sponsor(s) of an event, appearance or ceremony which is related to official City business in connection with such an event, appearance or ceremony and to which one (1) or more of the public are invited; or
  - ii. In connection with teaching, a speaking engagement or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the Public Servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity.  
(Amended, election of 11-6-12)

### **IV. Application of the Charter to the Facts Presented**

\*the name has been changed to protect the confidentiality of the process

Legal Counsel's preliminary analysis concurs with previous Opinions regarding gifts and gratuities and there are no facts in these circumstances that make this Request exceptional. It is the type of fact pattern that employees/public servants face often when a vendor, contract, or other entity who is doing business with the City wants to show gratitude for a job well done.

The gifts prohibition does not allow for such an action. It does however have exceptions. Yet this set of facts fails to align with any of the exceptions:

- there is no public presentation of an award to the public servant;
- this involves no copies of trade publications, journals or materials etc.;
- the gift is not from a member of the public servant's family;
- this involves no event/appearance, which is related to official City business, of which the public is invited; and
- has no connection with the public servant being engaged in teaching/speaking or providing assistance to an organization or another municipality and the City has provided no compensation for the engagement

The Board of Ethics is grateful for the exemplary action taken by the public servant in refraining from accepting the gift and following the clear language of the Ethics Ordinance.

## **V. Conclusion**

The Board of Ethics concludes based on a review and investigation, the Requestor, may not receive the gift because it falls within the Sec. 2-106.4. - Gifts and Gratuities prohibition.

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