



CITY OF READING, PENNSYLVANIA

BOARD OF ETHICS
P.O. Box 1371
READING, PA 19603-1371

EDMOND J. DOHERTY, CHAIR
REV. TONY PEREZ, VICE CHAIR
ELIZABETH M. HAWTHORNE, MEMBER
DELIA F. MCLENDON, MEMBER

ADVISORY OPINION

98-1

A. FACTS

Pursuant to Section 10 of the City of Reading Code of Ethics, the Board of Ethics is authorized, upon the written request of any public official or City employee, to render advisory opinions concerning matters of governmental ethics and to consider questions as to ethical conduct, conflicts of interest and the application of the ethical standards set forth in the Code of Ethics.

The Board of Ethics has received a written request from Russell W. Scianna, Esquire, City solicitor, to issue an advisory opinion concerning Councilman Joseph Eppihimer.

According to Mr. Scianna's letter, a group of independent trash haulers may wish to donate space they are leasing to Mr. Eppihimer for use as his councilmanic district office. The space may either be given for free or for a nominal rent. The Board of Ethics understands that a referendum ballot question will appear on the Spring, 1998 election ballot concerning the adoption of a comprehensive trash plan for the City of Reading. The independent trash haulers will be working to defeat the referendum. The Board's advisory opinion is sought as to whether Mr. Eppihimer may accept this office space, and, if so, under what conditions.

B. THE APPLICABLE CHARTER AND CODE PROVISIONS

The Board is of the opinion that Section 8.B. entitled Solicitation/Acceptance of Gifts applies to this situation. The section reads, in part, that "no official or employee shall accept gifts and other things of value in return for a favorable decision or vote." It is stated further in Section 8.B that "City employees and officials shall not solicit or accept gifts, either directly or indirectly, from any person or entity doing business with or under regulation by the City or from the agent or lobbyist of such person or entity except on behalf of the City. As a general rule, solicitation or acceptance of gifts shall be presumed to constitute unauthorized compensation and it shall be presumed that the



employee knew or should have known that such solicitation or acceptance was based on an understanding that his/her official actions or judgment would thereby be influenced.”

C. OPINION

Councilman Eppihimer and Mr. Scianna, the City solicitor, are to be commended for requesting this advisory opinion from the Board of Ethics.

It is the opinion of the Board of Ethics that the donation of space, either for free or for nominal rent, by the independent trash haulers to Mr. Eppihimer for use as his councilmanic district office will cause Mr. Eppihimer to violate the provisions of Section 8 of the Code of Ethics. It is the opinion of the Board of Ethics that the donation of this office space to Mr. Eppihimer would constitute a gift which, pursuant to Section 8.B. of the Code of Ethics, would be presumed to constitute unauthorized compensation and cause there to be a presumption that the acceptance of such a gift by Mr. Eppihimer was based on the understanding that his official actions or judgment would be influenced.

The Board of Ethics wants to make it very clear that it is not suggesting or implying that Mr. Eppihimer has solicited any gift or accepted any gift based on any understanding that his or her official actions or judgments would be influenced. To the contrary, there is no evidence to suggest or imply this. However, the Code of Ethics would cause such a presumption to be created and this is, of course, why the acceptance of such gifts is to be avoided.

CITY OF READING, BOARD OF ETHICS

By: Edmond J. Doherty
Edmond J. Doherty, Chairman

Dated: MARCH 3, 1998

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