



City of Chicago  
Eugene Sawyer, Acting Mayor

March 22, 1988

Board of Ethics

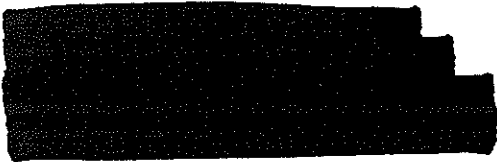
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Case Number 88005.A

**CONFIDENTIAL**

Dear 

This letter is in response to your request for an advisory opinion concerning the status of three gifts you recently received. According to the information given to us, these gifts include: (1) one black and white television set from *an* *insurance company* which you turned over to the City Comptroller's Office; (2) fifty-six movie passes from *a national movie corporation* and (3) one 1988 guest pass to eight Chicago museums.

Based on the information we received, the Board reached two conclusions. First, your actions with respect to the television set were in conformity with the provisions of the Ethics Ordinance. Second, it would not be advisable for you to accept either the cinema tickets or the museums pass. Accepting these items would not clearly violate the gifts provisions of the Ethics Ordinance but could create the potential for a conflict of interest situation and might give an appearance of impropriety. If you choose to accept these gifts, we recommend that you limit your use of these such that the market value of the benefits you receive from each donor does not exceed approximately \$50.

Our analysis in support of each of these conclusions is set forth below in two parts. Part I will address questions concerning the cinema passes and the museum pass. Part II will address questions concerning the television you received and gifts accepted on behalf of the City.



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Section I.

You informed the Board that you received 56 movie passes [REDACTED]. Each pass entitles you and one guest to a movie during a specified time period. The passes are non-transferable and are valid only within the dates specified on each pass. Your office informed us that in addition to the cinema passes, you received a guest pass to eight Chicago museums. The pass entitles you and an unspecified number of guests to an unlimited number of visits to any of these museums during 1988. It is our understanding that these benefits appear to be offered only as a "courtesy" to public officials without intent to influence governmental action, and that you are unaware of any City regulatory transaction which would affect the economic interests of either donor.

The Ethics Ordinance contains two sections which are relevant to these circumstances, sections 26.2-4(c) and 26.2-4(b). Section 26.2-4(c) states that:

No person who has an economic interest in a specific City business, service or regulatory transaction shall give, directly or indirectly, to any City official or employee whose decision or action may substantially affect such transaction, ... and none of them shall accept, any gift of (i) cash or its equivalent regardless of value, or (ii) an item or service other than an occasional one of nominal value (less than \$50).

Accepting a gift will constitute a violation of this section only if all of the following conditions are met: 1) the donor has an economic interest in a transaction with the City; 2) the recipient is a City official or employee in a position to substantially affect this transaction; and 3) the gift is either cash or any item or service worth \$50 or more.

We have no knowledge of any specific City business, service or regulatory transaction currently pending which might affect the economic interests of either the [REDACTED] or the Chicago museums. In the absence of any such transaction, your acceptance of a gift from either donor would not technically violate section 26.2-4(c) of the Ordinance.

Section 26.2-4(b) of the Ordinance prohibits City employees and officials from accepting gifts on the basis of an implicit or

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explicit understanding that such gifts might influence the recipient's actions in City government. The section states that:

No person shall give or offer to give to any official, employee, or City contractor... and none of them shall accept, anything of value... based upon any mutual understanding, either explicit or implicit, that the votes, official actions, decisions or judgments of any official, employee, or City contractor concerning the business of the City would be influenced thereby. It shall be presumed that a non-monetary gift having a value of less than \$50 does not involve such an understanding.

In the circumstances you present, there is no evidence to suggest that either gift is being offered on the basis of a mutual understanding between you and the donor concerning your governmental actions. In the absence of any such understanding your acceptance of these gifts would not violate section 26.2-4(b) of the Ordinance.

Despite the fact that it might not technically violate any of the gifts provisions of the Ordinance for you to accept the Cinema tickets [redacted] or the guest pass from Chicago museums, there are good reasons why you should return these items or should at the very least limit your use of them. It is reasonable to expect that certain circumstances could arise in which you would be in a position to further the interests of one or both of the donors through your governmental actions. For example, it is possible that legislative activity which would affect the interests of [redacted] might arise in the future in which case you would be in a position to "substantially affect" a transaction which has economic implications for this enterprise. Furthermore, it is possible that after giving you certain benefits, a donor could approach you to request that you initiate some legislative activity favorable to its business interests. In either case, your acceptance of a gift now, from a person or entity who stands to benefit from your governmental actions and influence in the future may give the appearance of an improper understanding between you and the donor or, at the very least, may create the impression that you will be predisposed to make governmental decisions which further the private economic interests of the donor.

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For these reasons, the Board believes that it would be advisable either for you to return the items you received or to limit your use of these items in such a way that the value of the benefits you derive from any one donor does not exceed \$50.

The gifts provisions of the Ordinance cited above create an allowance for nonmonetary gifts worth less than \$50. Section 26.2-4(c) explicitly allows an official to accept an occasional nonmonetary item worth less than \$50; and section 26.2-4(b) establishes a presumption that nonmonetary gifts worth less than \$50 do not entail an improper attempt to influence City actions and are by implication acceptable. By limiting your use of the benefits to conform to this threshold you will largely avoid any appearance of impropriety and will clearly avoid any violation of the Ordinance.

In your letter you suggest that there is some difficulty in determining the value of gifts such as the cinema tickets. You note the fact that such passes are not normally sold, are non-transferable, and may be used only on certain dates. There are similar issues raised in attempting to calculate the value of the guest pass to museums.

With respect to gifts such as these the Board believes that the value of the gift corresponds to the market value of the benefits which are potentially afforded to the recipient. For example, in the present case, you have received 56 passes to movies, each of which entitles you and a guest to entertainment normally costing up to \$6 per person. In other words you could receive up to \$12 worth of entertainment benefits from each pass. The aggregate value of 56 passes could therefore potentially exceed \$600. Based on the recommendation above, you should either return these passes altogether or accept and use no more than four of the passes (The aggregate value of which would be less than \$50). In either case we suggest that you notify the donor of your actions and the reasons for them.

We suggest a similar course of action with respect to the museums pass. If you accept this pass, you should attempt to limit your use of it such that you do not derive more than \$50 worth of benefits and in addition, you should notify the donors of your actions and reasons for them.

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Section II.

You informed the Board that you had received a small black and white television set from [REDACTED] and that you turned this gift over to the City Comptroller's Office. Your actions in this case comply with provisions in the Ethics Ordinance pertaining to gifts accepted on behalf of the City.

According to Section 26.2-4(f) of the Ordinance, officials and employees may accept gifts on behalf of the City provided "the person accepting the gift shall promptly report receipt of the gift to the Board of Ethics and to the Comptroller, who shall add it to the inventory of City property."

Under these provisions, items which may be used by the City or donated by the City to charitable organizations can be accepted by officials regardless of their value provided they are reported to the Board of Ethics and to the Comptroller's Office. These gifts will be added to the inventory of City property and should remain on the premises occupied by City agencies unless formally donated by the Comptroller's office to other persons or organizations on behalf of the City.

Under these provisions it would not be permissible for an official or employee to accept a gift from a private donor and subsequently give this to a person or organization other than the City, unless the gift has been disclosed and added to the City inventory and the City Comptroller has authorized the subsequent donation of the gift by this individual.

Once an item becomes City property, its disposition should be determined solely by the Comptroller's Office. The Board believes that it may be allowable for an official or employee to donate a gift directly to a charity on the City's behalf if the items are perishable and would lose their value as a result of the time taken to formally disclose and record them prior to donation. However, in other circumstances section 26.2-4(f) of the Ethics Ordinance would seem to prohibit an official from directly giving an item received to organizations or persons other than the City.

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**[REDACTED]**  
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We very much appreciate your inquiry and hope that this has sufficiently addressed your questions. Please do not hesitate to contact the Board if you have questions concerning these or other matters.

Sincerely,

  
S. Brandzel  
Chairman

JH/jh **[REDACTED]**