



SOMERVILLE HOUSING AUTHORITY

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TO: SHA Employees, Commissioners, Volunteers, Consultants

FROM: Jeffrey L. Driscoll, Esquire

DATE: December 14, 2011

RE: Acceptance of Gifts and the Conflict of Interest Law

Recently I have received a number of inquires concerning what gifts an employee of the SHA may or may not accept. Your conduct as an employee of the SHA is guided by the Conflict of Interest Law (MGL Ch. 268A) and the Somerville Housing Authority Code of Conduct.

The Conflict of Interest Law, MGL Ch. 268A, provides that anyone who is employed by the SHA, whether full or part time, is a commissioner, volunteer or consultant is considered to be a municipal employee and as such is subject to the requirements of this statute.

With regard to gifts the statute provides that asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. While the statute does allow SHA employees to accept a gift or gifts that do not have a total value of \$ 50.00 or more, accepting such a gift that is intended to reward past official action or to bring about future official action is illegal.

The SHA Code of Conduct further requires that you not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or other item of monetary value from a person, public agency, or private entity you know or have reason to know:

- Has had, has, or is seeking to obtain contractual or other business or financial relations with the SHA;
- Conducts or is seeking to conduct business or other activities that are regulated or monitored by the SHA; or
- Has interests that may be or may give the reasonable impression of being substantially affected by the performance or non-performance of your official duties.

Example: You may not accept a restaurant lunch from a consultant employed by a firm under contract to SHA,

Example: You may not accept a Christmas gift from a vendor seeking business with the SHA,

Example: You may not accept a ticket to a sporting event from an individual whose business the SHA regulates.

The Code of Conduct allows the following:

- You may accept gifts in cases involving a family or personal relationship when the circumstances make clear that the relationship is the motivation for the gift.
- You may accept nonalcoholic beverages, such as coffee or tea, from public or private entities.
- You may attend and accept food and beverages at seasonal or celebratory functions, such as Christmas, birthdays, or retirement parties, hosted by public entities.
- You may accept food and beverages in connection with attendance at working meetings held in the office of a public entity.
- You may accept food and beverages in connection with attendance at widely attended meetings or gatherings held by a private trade or professional association in an officer or other business setting when you are attending the meeting or gathering in your official capacity for informational, educational, or other similar purposes.

Example: You may accept a modest meal served in a restaurant function room in conjunction with an informational, widely attended meeting hosted by a professional association;

Example: You may not accept food and beverages at a hospitality suite hosted by one or more private firms.

- You may accept loans from banks or other financial institutions to finance proper and usual customer activities, such as home mortgage loans and automobile loans. If the bank or financial institution is an entity with which you have or might reasonably expect to have dealings in your official capacity, you must be able to demonstrate that the loan has been granted on current customary terms. You must also provide written disclosure of the loan to your supervisor. The previous sentence does not apply if your duties or anticipated duties with respect to the bank are limited to obtaining third-party records.
- You may accept unsolicited advertising or promotional materials of normal value.

Example: You may accept an unsolicited, inexpensive promotional pen or calendar.

Example: You may not accept a leather portfolio.

MGL 268A further provides that as a SHA employee you must avoid the appearance of a conflict of interest. The appearance of a conflict of interest will occur when one acts in a manner that would make a reasonable person think you can be improperly influenced. Such conduct is prohibited.

Acceptance of gifts, of any value, may place you in a position whereby an appearance is created that you may be improperly influenced. Therefore, acceptance of such gifts, regardless of their value, is prohibited.

If you have any specific questions relative to this please contact me.

Thank you.

