

February 20, 1998
Re: IO-98-22

You inquired whether you could accept the invitation of the vice-president and chief promoter of the Earth Society, to serve as a "fellow" and to participate in a two-day seminar on behalf of the organization. In exchange for your participation the Earth Society would pay for your travel and lodging expenses. The vice-president is a developer with substantial business in Anne Arundel County. His organization, an acronym for the "Environmentally Active Research & Teaching Home-builders Society"(E.A.R.T.H. Society), is a non-profit organization that promotes the "benefits of environmentally-sensitive land development." The method that it uses to pursue its goals, is to offer a seminar in various cities. This seminar consists of five separate two-day units, to be spread over five months. According to the printed information you provided, successful completion of all five seminars, or "modules" as they are called, can lead to certification as a "fellow" in the society. You would be an "honorary fellow" and would not be required to attend all the seminars or pay the fellowship exam fee of \$100 to qualify as a "fellow."

Your inquiry presents issues under §3-106(gifts) and §3-104(use of the prestige of the office). The provision on gifts limits the types of gifts that a county employee can accept from "controlled donors." The Earth Society is not a controlled donor because it does not do business with the County, is not subject to the authority of the County, is not a lobbyist with your agency, and will not be affected in a significant way by the performance of your official duties. However, because the Earth Society is a vehicle for its vice-president, who as the leader of the seminar series will certainly benefit by the promotion of this organization, the Commission believes that it is the developer, not the organization, that should be regarded as the donor. Under these circumstances, the gift is in fact, being offered by a controlled donor.

Employees are permitted to accept "reasonable expenses for food, travel, lodging, and scheduled entertainment . . . for a meeting, conference, or other function, if the expenses are paid in return for the employee's participation in . . . a panel or speaking engagement," unless the gift of expenses is intended or would appear to impair your impartial and independent judgment in your official dealings with the developer. The Commission believes that reasonable expenses involved in traveling and participating in one two-day seminar would not be of such value as to appear to impair your ability to perform your official duties in an impartial way. On the other hand, if you would be expected to participate in these seminars on a regular or frequent basis, the Commission believes that an appearance of partiality would be created between you and the true donor of this gift. Regular participation in these seminars could also create an employment relationship, albeit non-compensated, between you and the Earth Society, presenting issues under §3-105(outside employment). The Commission concludes that you can accept travel and lodging expenses from this donor on a one time basis to attend and participate as a speaker in this seminar. You may not accept payment of expenses to stay at the seminar location or attend any entertainment that is provided to attendees after the conclusion of the seminar.

The more significant issue raised by your inquiry involves the prohibition against using the "prestige, title, or authority of the employee's office or position for the . . . gain of another."

As an Earth Society "honorary fellow," your name and title would be listed in the informational brochure that markets these seminars to potential customers. This list of honorary fellows is accompanied by the following statement:

Our Environmental Dream Team Teaches You How to
Take Your Project From Start To Finish! Join [the name of the vice-
president] and our 22 Honorary Fellows, each a leading builder,
developer, or recognized professional, as they offer their extensive
knowledge and expertise in all areas of green development.

As an "honorary fellow," your name and title would enhance what is basically an advertisement to promote the Earth Society. Therefore, the Commission finds that you may not serve as a fellow, or an "honorary fellow" of the Earth Society and you may not allow the use of your title or position with Anne Arundel County in any literature that endorses or promotes the purposes of the society. See Opinions 96-109, 96-111.

In conclusion, the Commission advises that you may participate as a speaker at a two-day seminar at the Earth's Society's reasonable expense on a one time basis only. You may be introduced at the seminar as the Director of Planning and Code Enforcement, but you may not use your title in any society literature or allow your title to be used in connection with your being a fellow. You may of course, attend any or all of the seminars at your own expense (or at county expense, if otherwise permitted by law) and if you choose to do so, you may become a fellow of the Earth Society in your personal capacity. If you have any further questions, please call any time.

Sincerely,

Betsy K. Dawson
Executive Director