

March 15, 2006

***By Electronic and Interoffice Mail***

Re: IO-06-20

You inquired whether council members may accept free admission to the Annual Builders' Mart from the Home Builders Association of Maryland. The event will be held in Timonium on March 22, 2006. The ethics commission advises that §5-106(c)(2)(iv) prohibits council members - or other county employees - from accepting this gift.

The Builders Mart, hosted by the Home Builders Association of Maryland, provides a venue for subcontractors and other vendors to display their goods and services to the builder-members of the Association. The free admission includes a VIP parking pass, which is a convenience but has no monetary value, and a bull and oyster roast. The cost of admission is \$42 if paid in advance (the amount attributed by the Association to the council members), or \$55 for walk-ins.

There are several provisions of Section 5-106 of the ethics law which may apply to prevent a council member from accepting this gift. Specifically, §5-106(2)(vii) permits an elected official to accept free admission to a "charitable, cultural, or political event," offered by the person holding or sponsoring the event, as a courtesy to the office. While the Association plans to offer a playhouse built by one of its members in a raffle, the proceeds of which will go to a charity, the event is not billed as a charitable event, nor is it intended to be primarily a charitable event. The ethics commission has concluded that as a trade association event, it does not meet the definition of a charitable, cultural or political event. Therefore, the gift may not be accepted under this provision of the ethics law.

Another provision, §5-106(c)(2)(iv) expressly limits acceptance of gifts from lobbyists to "unsolicited gifts . . . that do not exceed \$20 in cost. The Homebuilders Association has qualified as a lobbyist under §1-101(t)(4) since 2003, and they have employed a registered lobbyist annually from 1997 to November, 2005 when their registered lobbyist resigned and terminated the registration. This lobbyist has not yet been replaced although the Association anticipates registering for 2006 when a replacement is found. Technically, the Association is therefore not currently a lobbyist, and under the strict letter of the law, this provision of the law would not apply to prohibit a council member from accepting this gift until the Association registers to lobby in 2006. In keeping with the spirit or intent rather than the letter of the law, the

ethics commission advises that a council member should not accept a gift in excess of \$20 from an association that plans to register a lobbyist in the county.

Finally, §5-106(c)(2)(i) permits the acceptance of gifts of “occasional meals and beverages of modest value.” A value of \$25 has been adopted by the commission for the past several years as the upper limit of what constitutes a modest value. Although the commission has revisited this amount, with the purpose of adjusting it for inflation, it has never done so. In establishing and retaining the \$25 maximum for a meal of “modest value”, the commission has considered the federal government’s *per diem* guidelines, which for 2006, limits the cost of a dinner in Annapolis to \$31. See, [http://www.gsa.gov/Portal/gsa/ep/contentView.do?queryYear=2006&contentType=GSA\\_BASIS&contentId=17943&queryState=Maryland&noc=T](http://www.gsa.gov/Portal/gsa/ep/contentView.do?queryYear=2006&contentType=GSA_BASIS&contentId=17943&queryState=Maryland&noc=T)

For these reasons, the ethics commission advises that you may not accept free admission from the Home Builders Association of Maryland to the Annual Builders Mart.

Thank you for your inquiry.

Sincerely,

Betsy K. Dawson  
Executive Director