

TO: Greenburgh Town Supervisor

CC: Greenburgh Town Council  
Greenburgh Town Clerk

## OPINION 2014-10

### **Background**

This Advisory Opinion addresses a request for opinion from Town Supervisor Feiner dated October 27, 2014 concerning using the Town email to send out an e-blast with information announcing a one-day art sale at Greenburgh Town Hall on November 1, 2014 sponsored by the Greenburgh Arts and Culture Committee (ACC). The Greenburgh Arts and Culture Committee is an IRS Section 501 (c) 3 not for profit corporation. The proceeds of the art sale of 100 paintings at \$65 each will be go to the ACC for the benefit of “Matters of the HeART – 2015” an annual exhibit by Westchester Senior artists.

### **Opinion**

Section 570-4 A regulates the solicitation and acceptance of gifts by public officers, employees and agency members on town property. In general, the solicitation or acceptance of gifts by Town officials other than for or on behalf of the Town is prohibited. However, there are two exceptions as specified in Section 570-4A (3) and Section 570-4A (4). The relevant section in this case is Section 570-4A (3). The relevant part of Section 570-4A (3) of the Code of Ethics states “Nothing in 570-4 shall prohibit soliciting or accepting gifts or donations for fundraisers for the benefit of Internal Revenue Service Section 501(c) (3) organizations, provided that a Public Officer cannot solicit any such gift from an Employee;”

In response to a request by the Board of Ethics earlier this year, the Town provided information concerning the e-list which has been analyzed with respect to the presence of employees on the e-list. The e-list is a mass mailing designed primarily for the purpose of reaching interested parties in the public. It is not designed as an internal communication tool to reach Town employees. Names are placed on the e-list voluntarily by individuals who wish to receive information. Although employees may opt to have their names placed on the list, the vast majority of those on the list are not employees. It is the opinion of the Board of Ethics that the presence of some employees is incidental to the main purpose of the e-list and is, therefore not generally an impediment to the use of the e-list for the purpose of soliciting for 501(c) 3 corporations. It should be noted that this interpretation does not apply to solicitations for political contributions.

The event in question is sponsored by a 501(c) (3) not for profit corporation. It is the opinion of the Board of Ethics that the charitable exception for 501(c) (3) organizations does apply and the Town's e-list may be used for this event. This opinion is based on the facts as presented to the Board of Ethics.

BY THE BOARD OF ETHICS

Adopted at October 27, 2014 Meeting

Voting for:

Mr. Eisen

Ms. Friedman, Esq.

Dr. Hopkins, PhD

Mr. McLaughlin

Dr. Sarcinella, EdD