

TO: Mr. David Fried, Deputy Town Attorney
Mr. Paul Feiner, Greenburgh Town Supervisor

CC: Greenburgh Town Council
Greenburgh Town Clerk

ADVISORY OPINION 2018-1 – Costco Offer of Discounts to Employees

Background

This Advisory Opinion addresses a request for an opinion from Deputy Town Attorney David Fried by email dated October 3, 2017, and by direct request at the Board of Ethics meeting of October 25, 2017.

The underlying facts presented are as follows: On October 2, 2017, an email was sent by the Town Clerk to Town employees informing recipients that a representative from Costco would be in the town hall lobby on October 5, 2017, to share opportunities for Costco membership offered to businesses and government employees. Costco would also provide refreshments and snacks.

Costco Wholesale Corporation did not have a retail location in the Town. Furthermore, Costco is not known to have been an applicant before the Town, in litigation with the Town, or have a contract with the Town at the time in question.

Opinion

The section of the Ethics code relevant to this question is; [§ 570-6 Use of Town-owned equipment or property.](#) “No Public Officer, Employee or Agency Member shall request, obtain, permit the use of or use Town-owned vehicles, equipment, buildings, material, or property or Town-funded services for personal convenience, Interest, use or benefit or the personal convenience, use or benefit of others, except when such services are available to the public generally or are specifically provided by the Town Board for the use of such Public Officer, Employee or Agency Member in the conduct of official business.”

In the opinion of the Board of Ethics, to qualify as official business, the use of town-owned assets or town-funded services to distribute promotional offers for private entities must be based on a general authorization by the Town Board and governed by fair and consistent standards. The absence of such standards could lead to the perception of unequal treatment by businesses. Unless and until the Town Board has authorized the use of Town assets and services for such a purpose and established relevant standards, the Town should not distribute promotional offers.

This opinion is consistent with the finding of the Board of Ethics in Opinion 2013-1, and the discussion regarding Section 570-4 A (1) in that opinion holds true in this matter and is referred to as if fully set forth herein.

This Advisory Opinion is based on the facts presented to the Board of Ethics. No opinion is expressed herein as to what conclusions would be reached if any of the facts upon which this Advisory Opinion is based were to change.

BY THE BOARD OF ETHICS

Adopted at January 23, 2018, meeting

Voting for:

Hon. Friedman, Esq., Chair

Dr. Sarcinella, EdD

Mr. Spinozzi

Mr. Zumsteg