

TO: Fran McLaughlin, Chair Greenburgh Planning Board

cc: Greenburgh Town Board  
Greenburgh Town Clerk  
Planning Board Members

**OPINION 2010-11**

Background

On October 30, 2010, the Chair of the Planning Board, pursuant to Section 11D(2) of the Code of Ethics, requested that the Board of Ethics give an advisory opinion to the Planning Board regarding inviting, as guests of the Planning Board members, two Town appointed officials to the Planning Board's annual holiday dinner in appreciation of services they perform for the Planning Board throughout the year. The cost of the dinner is approximately \$ 25 per person, and the cost of each of the appointed officials would be shared by the seven Planning Board members, which would be about \$ 7 per person ( $25 \times 2 = \$ 50$  divided by 7).

Opinion

The appointed officials are compensated by the Town for rendering services to the Planning Board, and thus paying for their dinners would be a gift to appointed officials by members of the Planning Board.

Section 4 of the Town Code of Ethics and Section 805(a)(1) of the NYS General Municipal Law pertain to gifts. Section 4A(3) of the Town's Code of Ethics provides, in relevant part, that: "Nothing in Section 570-4 shall prohibit . . . soliciting or accepting gifts for special occasions, such as weddings, birthdays, birth of a child, sickness, retirement, and holidays, provided . . . that no individual shall gift or donate more than \$ 75 for any one such special occasion." New York law has a \$ 75 *de minimis* exception in GML Section 805(a)(1) with respect to acceptance of gifts.

Since the value of the gift to each appointed officer is less than \$ 75, and since the respective gifts from each member of the Planning Board for this annual special occasion are less than \$ 75, the Board of Ethics concludes that it does not violate the Code of Ethics for the members of the Planning Board to invite two appointed officials to be their guests at the Planning Board's annual holiday dinner and for the two appointed officials to accept the invitation.

The request for an advisory opinion also asks about future years. As long as the law is not changed and as long as the conditions set forth in Section 4A(3) are met, this advisory opinion would relate to future years.

BY THE BOARD OF ETHICS

*Adopted at November 17, 2010 Meeting*

Voting For: Mr. Constantine

Mr. McLaughlin

Mr. Rivera

Mr. Scott

Mr. Sigal