

To: Greenburgh Town Clerk

cc: Greenburgh Town Board

OPINION 2014-2

Background

This Advisory Opinion addresses an email received from Judith Beville, Greenburgh Town Clerk, dated December 23, 2013 regarding the inclusion of disclaimers in future letters soliciting political campaign contributions. The inquiry was prompted by Advisory Opinion 2013-5. Ms. Beville proposed that a disclaimer statement along the following lines be included in campaign solicitation letters:

“In compliance with the Code of Ethics of the Town of Greenburgh, please disregard this appeal if you are an appointed officer, employee or agency member (member of a Board or Commission) of the Town.”

Ms. Beville stated that the mailing house would still be given a list of those individuals who should not be solicited and asked to not send the solicitation letter to them. However, as with the law of averages, errors may arise in the preparation or handling of such a list and, by mistake, an appointed officer, employee or agency member (or spouse of an appointed officer or employee) could still receive the solicitation letter. If the letter contains the “disclaimer,” then anyone who might receive the letter is duly informed of the Town’s code.

Analysis and Opinion

The Code of Ethics is silent on this issue and neither prohibits nor requires the inclusion of a disclaimer in political campaign solicitations. However, it is the opinion of the Board that a disclaimer may further compliance with the Code. The records of the Board of Ethics show that in August 2007, the Board of Ethics, after review and comment by Town elected officials, approved a disclaimer that it recommended for inclusion as a legend on campaign solicitations. The disclaimer approved by The Board of Ethics makes reference to the Board of Ethics page on the Town website for further information. The disclaimer approved by the Board of Ethics in 2007 was intended to serve the same general purpose as the one suggested by Ms. Beville. However, there are several important differences. Sections 570-4 and 570-7 identify the categories of individuals and entities from which campaign contributions may not be solicited and/or accepted. The prohibited categories include not only employees, appointed town officials and agency members (solicitation only) and the affiliates of employees and appointed Town officials, but also certain applicants to the Town and their affiliates, their lawyers and professional consultants and individuals or entities which do business with the Town. To minimize the possibility that a disclaimer could be misinterpreted by the reader, the disclaimer should list all of the relevant categories of entities from which campaign contributions may not be accepted including certain applicants and contractors and their affiliates. The category of agency member should not be included in the disclaimer since campaign contributions may be accepted from agency members although agency members may not be solicited. Also, since 2007 the Town Code has changed and the categories of applicants and contractors who are covered have been redefined. Therefore, both the disclaimer approved in 2007 and the referenced Board of Ethics page on the Town website need to be updated to reflect the latest Town Code. The Board

of Ethics, in coordination with Town elected officials, will revise and post both on the Board of Ethics section of the Town website.

The inclusion of a disclaimer in political campaign solicitations should be considered to be supplementary to and not a substitute for reasonable and rigorous action on the part of election campaigns to ensure that solicitations are not sent to nor contributions accepted from certain individuals or entities. A list of such individuals and entities is maintained in the Town Clerk's office in accordance with Section 570-7 E of the Town Code.

The Board of Ethics wishes to recognize Ms Beville for raising this issue.

BY THE BOARD OF ETHICS

Adopted at January 28, 2014 Meeting

Voting for:

Dr. Hopkins, PhD

Mr. McLaughlin

Mr. Scott

Not Present:

Mr. Eisen