

To: Supervisor Paul Feiner
Ms. Allegra Dengler
Mr. Hal Samis

Cc: Greenburgh Town Board
Greenburgh Town Clerk

Opinion 2009-3

On February 12, 2009 a verified complaint alleging a violation of the Code of Ethics adopted by the Town of Greenburgh was filed with the Town of Greenburgh Board of Ethics. The allegations in the complaint are that Paul Feiner, Town Supervisor, solicited or accepted campaign contributions from Larry and Allegra Dengler prior to the appointment of Allegra Dengler as Environment Conservation Coordinator for the Town of Greenburgh. These contributions were made by the Denglers to Mr. Feiner on or about September 7, 2007 for \$100.00 and again on or about December 7, 2007 for \$250.00. On May 14, 2008 Allegra Dengler was appointed as Environment Conservation Coordinator for the Town of Greenburgh. Mr. Feiner voted in favor of her appointment

Section 570-4 A(2) of the Code of Ethics states that “No public officer, employee or agency member shall, directly or indirectly, solicit, accept, receive any gift or item of personal or real property or any interest therein whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift or item of personal or real property or interest therein was intended to influence her/him in the performance of her/his official duties; could reasonably be expected to influence her/him in the performance of his/her official duties; or was intended as a reward for any official action on his/her part.”

Section 570-7A (1) provides that “no public officer or agency member shall directly or indirectly, solicit or accept any contribution or money, services or thing of value for any political party, campaign committee or any candidate from any appointed officer or employee or from any applicant or from an applicant’s affiliates or from an applicant’s legal representative or professional consultants or their respective affiliates.” Applicant is defined in Section 570-3 to include “any person seeking employment, or any person or legal entity seeking other material benefit from the Town.” The period of being an applicant is defined to include “a period commencing 12 months prior to the filing.”

Opinion

1. The complaint in this case was properly filed in accordance with the Code of Ethics and Board of Ethics procedures.
2. An investigation, in which Town Supervisor Feiner fully cooperated, showed that 2 contributions were made by Larry and Allegra Dengler to Mr. Feiner’s campaign. The first contribution on or about September 7, 2007 for \$100.00 occurred 7 months prior to Ms. Dengler’s appointment as Environment Conservation Coordinator for the Town of Greenburgh on May 14, 2008. The second contribution on or about December 7, 2007 for \$250.00 occurred

5 months prior to Ms. Dengler's appointment as Environment Conservation Coordinator for the Town of Greenburgh on May 14, 2008. These contributions to Mr. Feiner are within the 12 month proscribed time frame of Chapter 570-7A (1) and the definition of applicant under the Code of Ethics adopted by the Town of Greenburgh.

3. Since the recent adoption of the current Code of Ethics in 2007, particularly Section 570-3 attaching a 12 month pre-application time frame to the definition of an applicant, this is the first complaint of this type. This violation of the Code of Ethics is only now a violation due to the new time line.

4. Town Supervisor Feiner informed the Board of Ethics that he refunded the Denglers donations in full as of July 17, 2009. He did this voluntarily, without an opinion from the Board of Ethics. This shows an effort to comply with the requirements of the Code of Ethics.

5. In light of the circumstances above, the Board of Ethics declines to recommend a fine as a penalty for this violation, since the interplay of the statutory provisions at issue is unique, in that they proscribe a contribution which was not proscribed at the time it was made, and this new rule was just recently included in the Code of Ethics. However, donees need to consider whether applicants have been donors within the proscribed time frame, and the Board will examine each future circumstance involving the time line of Section 570-3 on a case by case basis.

BY THE BOARD OF

Adopted at the September 16, 2009

ETHICS
Meeting

Voting for: Mr. McLaughlin

Mr. Rivera

Mr. Scott

Mr. Sigal