

Advisory Opinion No. 92-23

An elected official has requested an opinion as to whether, consistent with Chapter 68 of the City Charter, he may accept two free tickets from a common carrier for travel to a destination outside of the State of New York.

The tickets were presented to the official at a community event sponsored by a number of business organizations. The official was an honoree at this event.

Newspaper reports of the community event state the tickets were presented to the official for use only after he leaves office. This restriction does not appear in the Rules and Conditions attached to the tickets, which state that the tickets must be used within a year. In any event, whether or not this restriction is imposed, the tickets were presented to the official during his term of office, and in circumstances where it appears that they were presented to him because of the elective office that he holds.

It is the opinion of the Board that the official's acceptance of the tickets would create the appearance

that he has received a valuable gift because of his official position, and without promoting any governmental purpose. Charter Section 2604(b)(3) provides that no public servant may use or attempt to use his or her position as a public servant to obtain any financial gain, privilege or other private or personal advantage, direct or indirect, for the public servant or any person associated with a public servant.

This case is analogous to the matter considered by the Board in its Advisory Opinion No. 92-10. In that Opinion, the Board held that an elected official could not accept an invitation by a business concern to be its guest at an event sponsored by the firm, and held at an out-of-state resort. The Board's conclusion was based on the fact that the invitation was offered because of the individual's position, and in the absence of a governmental purpose.

Further, the Board does not believe that donating the tickets to a third party would cure the appearance problem created by acceptance of this gift.

Sheldon Oliensis  
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: September 15, 1992