

[Advisory Opinion 1996-4]

MEMORANDUM

March 12, 1996

TO: [Name withheld]
Division of Employment Services and Regulation
FROM: Laurie B. Horvitz, Chair
Montgomery County Ethics Commission
RE: Request for Advisory Opinion

You have asked for advice regarding whether a donation made in your name is a gift and, if so, whether it may be accepted by you. You have explained that you received a card notifying you that a “generous” donation was made in your name by a consultant who has clients with construction projects. Because your responsibilities include all aspects of construction review and enforcement, you have sought the Commission’s advice regarding this matter. Your memorandum emphasizes that you took no action out of the ordinary with this consultant, but simply responded in the same manner as you would any customer of your division.

Based upon the information presented, the Ethics Commission finds that the donation to the organization in your name does not constitute a gift under Chapter 19A of the Montgomery County Ethics Law. The Ethics Law defines a “gift” as “the transfer of anything of economic value, regardless of form, without an exchange of consideration of at least equal value. Gift does not include a transfer regulated by state law governing political campaigns or elections.” Section 19A-4(h) of the Montgomery County Ethics Law. The donation in your name does not appear to transfer anything of value to you. You do not receive the donation or the tax benefits of making the donation. As a result, there is no gift to be accepted or rejected. If you remain uncomfortable with these donations in your name, you could request that the donor discontinue such contributions or direct them to the County.

The Commission appreciates your sensitivity to the restrictions governing acceptance of gifts. If you have any additional questions, please do not hesitate to contact the Commission.

cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission.