

MEH



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35 West Randolph Street
Chicago, Illinois 60606
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[REDACTED]

August 16, 1988

[REDACTED]

Case Number 88105.A

CONFIDENTIAL

Dear [REDACTED]

On August 9, 1988 the Board of Ethics issued an advisory opinion regarding the acceptance of gifts and discounts by employees at the Farmer's Markets. The circumstances were described to us as follows. The Department of Consumer Services organize the Farmer's Market program every summer at various sites around the City. These sites are staffed by City employees. Some of these employees are summer interns that serve as managers at the sites and others are regular departmental employees who oversee the summer interns and the operation in general. Occasionally employees have been offered or have asked for free or discounted items from the growers. *The* concern is that this gift giving may be in violation of the Governmental Ethics Ordinance. In view of the fact that *this* department may establish guidelines for its employees *the department also* requested a recommendation for appropriate guidelines.

The Board has made recommendations that are to be issued both to the growers and to employees. They are based on Section 26.2-4 of the Ethics Ordinance.

The applicable portion of Section 26.2-4 may be summarized as follows:

- (2) City employees and officials may not accept gifts or benefits on the basis of an understanding that such gifts or benefits will influence their governmental decisions (26.2-4(b)). It is presumed that a non-monetary gift



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worth less than \$50 does not involve any improper intentions and is therefore allowable. However, if factual evidence can be presented that the gift was given with the intent to improperly influence the City employee or official it is unethical regardless of the amount of the gift.

There has not been any indication that City employees have been accepting gifts from the growers with the understanding that the growers will receive special treatment. However, the Department of Consumer Services should avoid so much as an appearance of impropriety.

(3) City employees and officials may not accept any cash gift, or any item or service worth \$50 or more from any person who has an economic interest in any transaction with the City if the employee or official may substantially affect this transaction (26.2-4(c)). This section does not apply to gifts from relatives.

While it is improbable that an employee would receive a gift of produce valued at greater than \$50. If such a gift were offered the appropriate action is to 1) refuse the gift, 2) add the gift to the City inventory, or 3) donate the gift to charity.

Based on the applicable provisions of the Ethics Ordinance the Board recommends the following three points be issued by memorandum or letter to the growers participating in the Farmer's Market.

I. Growers are prohibited from giving any gift, regardless of value, based on an assumption that the gift will influence the recipient to give the grower special treatment, privileges or use of City property.

1) *Growers* are under no obligation to give any City employee any gift at any time. *Growers* should not submit to an employee soliciting gifts, especially if you feel the employee is offering some special treatment in exchange for the gift. Gifts may be given only if the value is less than \$50 and only at *the grower's own* volition.

2) No City decisions will be made based on the fact that *growers* gave or failed to give a gift. No gift should be given based on the assumption that special treatment will be given because no favors or other special treatment will be given *to the growers if they give a* gift.

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3) If the growers discover that gifts are being exchanged for favors or ^{they} feel some other form of impropriety is occurring ^{they} should report it to the appropriate official in the Department of Consumer Services. The Department should designate such an official to the growers.

II. The Board further recommends that the following guidelines to be distributed *to department employees.*

1) No employee should solicit a gift from a grower. Solicitation may be misconstrued as an attempt to exchange favors and creates an appearance of impropriety on the part of the employee.

2) No employee is compelled to give special treatment to those growers that give unsolicited gifts. If the employee believes that the grower seeks an exchange of favors, he should refuse the gift or if the gift was already accepted, report the facts of the situation to the appropriate departmental official.

3) Employees found in violation of these recommendations are subject to employment penalties including the loss of City employment.

4) Gifts worth \$50 or more must be reported to the Board of Ethics and to the City Comptroller.

5) Any violation of these rules must be reported to the Board of Ethics. All reports are kept confidential.

Thank you for your attention to the Ethics Ordinance. If you have further questions on this or any other case please do not hesitate to call our staff.

Sincerely yours,


S. Brandzel