

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

July 28, 1988

Bess Jordan
 Calhoun County Democratic Party
 20211 Collier Avenue
 Battle Creek, Michigan 49017

Dear Ms. Jordan:

This is in response to your inquiry concerning the applicability of the Campaign Finance Act, 1976 PA 388, as amended, to a proposed resolution of the Calhoun County Democratic Party. The resolution states:

"Resolved by the Executive Committee of the Calhoun County Democratic Party that any member, in good standing, may use the Calhoun County Democratic Party Building, 150 Riverside Drive, Battle Creek, Michigan, for fund raisers or any worthy cause, for a fee of \$1.00."

There is nothing in the Campaign Finance Act (the Act) or in other statutes administered by the Secretary of State which would prevent the Calhoun County Democratic Party (the Party) from making its facilities available to party members at a nominal fee. However, if the building is used for the purpose of holding a "fund raising event" as defined in section 7(4) of the Act (MCL 169.207) or for other campaign activities regulated by the Act, the rental or use of the building is subject to the Act's reporting requirements and other restrictions.

Pursuant to section 7(4), a "fund raising event" is any event or affair through which contributions are solicited or received. "Contribution" is defined in section 4 of the Act (MCL 169.204). This section states, in relevant part:

"Sec. 4. (1) 'Contribution' means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, donation, pledge or promise of money or anything of ascertainable monetary value, whether or not conditional or legally enforceable, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned.

(2) Contribution includes the purchase of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and similar fund raising events; an individual's own money or property other than the individual's homestead used on behalf of that individual's candidacy; the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by broadcast media and newspapers not extended on an equal basis to all candidates for the same office.'

Section 4 indicates that anything of ascertainable monetary value which is for the purpose of influencing an election is a contribution. This includes granting a discount not available to the general public and other non-monetary or "in-kind" contributions made to a candidate or committee under the Act.

The reporting requirements for political party committees are set out in section 29 (MCL 169.229). According to section 29(1), a campaign statement filed by a political party committee must include:

"(c) An itemized list of all expenditures, including in-kind contributions and expenditures and loans, made during the period covered by the campaign statement which were contributions to a candidate committee of a candidate for elective office or a ballot question committee; or independent committee; or independent expenditures in support of the qualification, passage or defeat of a ballot question or in support of the nomination or election of a candidate for elective office or the defeat of any of the candidate's opponents."

An in-kind contribution must be reported at its fair market value and cannot be assigned an arbitrary or nominal cost. The value of using a building is readily ascertainable. In the case of the Calhoun County Democratic Party, it is the fee charged to non-members for use of the Party's building for a given period of time. If the building is not available to non-members or is available free of charge, the value of the in-kind contribution is the rental fee generally charged in the community for the use of a similar facility.

Thus, in answer to your question, the Party may make its building available to party members for a fee of \$1.00 or no charge at all. However, if a member uses the building for a fund raising event or activity regulated by the Act, the Party must report the fair market value of the building's use as an in-kind contribution to the candidate or committee which holds the fund raiser. Similarly, the person conducting the fund raising event must report the fair market value of the use of the building as an in-kind contribution from the Party, as required by section 26 of the Act (MCL 169.226).

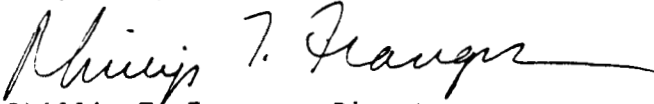
Finally, it should be noted that pursuant to section 52 of the Act (MCL 169.252), a district or county political party committee is prohibited from making contributions of more than \$2,500 to a candidate for state representative, \$4,500 to a candidate for state senate, or \$17,000 to a candidate for a state elective office other than the office of state legislator. Any in-kind

Bess Jordan
Page 3

contribution made by the Calhoun County Democratic Party to a candidate for state elective office, including the use of the Party's facilities, must be counted toward these contribution limitations.

This response is informational only and does not constitute a declaratory ruling.

Very truly yours,

A handwritten signature in cursive script that reads "Phillip T. Frangos". The signature is written in black ink and includes a long horizontal flourish at the end.

Phillip T. Frangos, Director
Office of Hearings and Legislation
(517) 373-8141

PTF/cw