

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



26-84-LI

LANSING
MICHIGAN 48918

June 11, 1984

Mr. Timothy Downs
Craig, Farber, Downs & Dize
Attorneys & Counselors at Law
1217 First National Building
Detroit, Michigan 48226

Dear Mr. Downs:

This is in response to your inquiry regarding the lobby act (the "Act"), 1978 PA 472. Your assumptions and questions are set out and answered below.

"1. Assume the Mayor of a municipality personally and regularly is given tickets to sporting events, plays and other entertainment functions. Assume that the provider(s) of such tickets is, in some instances, a sports corporation who is registered as a lobbyist. Assume that the gift of such tickets is not made with any expectation on the part of the giver that the tickets will be passed on by the recipient to an 'Official', although it is known to the giver that extra tickets are regularly given by the Mayor (or given by others at the Mayor's direction) to other persons, some of whom may be 'Officials'."

Under the hypothetical fact situation the sports corporation has no exposure under the Act. The mayor is not a "public official" as defined in the Act, so the Act does not regulate direct communications or gifts to the mayor. In addition, the mayor is not acting on behalf of the sports corporation when the mayor gives away some of the tickets. Therefore, the sports corporation is not giving a gift to those "public officials" who ultimately receive the tickets.

Even though the mayor did not pay for the tickets, passing them on to public officials constitutes a gift to the public officials from the mayor. Assuming the mayor is elected by the public, only lobbies on behalf of the municipality, and receives no compensation for lobbying beyond the mayoral salary, the gift of the tickets is not prohibited because the mayor is excluded from the definition of lobbyist agent by section 5(7) of the Act (MCL 4.415).

"2. Are expenditures made by MCLA 4.415(7)(b) person for lobbying

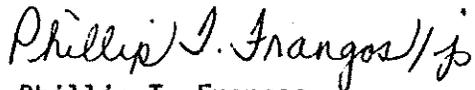
Timothy Downs
Page 2

purposes required to be reported by such person's governmental entity, which is registered as a lobbyist? Particularly, are expenditures for food and beverage as described by MCLA 4.418(2) required to be reported?"

Section 5(7)(b) (MCL 4.415) exempts certain elected and appointed public officials of state and local governments from the Act's provisions. A person who is exempt from being a lobbyist or lobbyist agent because of that provision and who is not brought back into the definition of lobbyist or lobbyist agent by section 5(7)(c), which governs employees of government and certain boards and commissions, may lobby without becoming a lobbyist or a lobbyist agent. Lobbying expenditures made by an exempt person from that person's own funds are not reported by anyone unless a lobbyist or lobbyist agent reimburses the exempt person. For example, food and beverages provided to public officials by an exempt person, but paid for or reimbursed by the government entity, must be reported on the government entity's lobbyist report.

These are general responses to general hypothetical questions. More specific questions will be answered as they are presented. This response is informational only and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw