

City of Bainbridge Island Ethics Board

Advisory Opinion

Case # EB 2021-08

Date Filed: May 12, 2021

Advisory Opinion Issued: July 19, 2021¹

I. *Question Presented*

The Councilmember seeking the advisory opinion is a member of the Kitsap Transit Board, and in that role received a complementary annual pass for free, unlimited use of all Kitsap Transit services. The Councilmember has asked whether that pass can be used without violating Article II, Section A of the Ethics Program, which prohibits the acceptance of “any gift ... for a matter connected with or related to their services or duties with the City ...,” subject to specific exceptions set forth in § II.A.2 and § II.A.3.

The Councilmember has indicated that the Councilmember’s seat on the Kitsap Transit Board is “among my roles as a City Councilmember.” The Councilmember states that the value of the pass is unknown. However, the Board assumes, based on the publicly available prices of monthly Kitsap Transit passes, that if the annual pass was available for public purchase, the cost would exceed \$50.

II. *Opinion*

The Ethics Board concludes that as represented, the acceptance and use of the transit pass would violate Article II, Section A. The Councilmember apparently received the pass as a result of the Councilmember’s role with the City. The pass is also a “gift,” because it is a “thing of value ... that is not available to the general public on the same terms and conditions.” Article VI.

While Article II, Section A has several exceptions, none of them apply here. The value of the item appears to be well above fifty dollars. While it could conceivably be a “gift ... reasonable and customary in light of [an] official relationship of the giver and recipient” pursuant to §II.A.2.c., the Board understands that subsection to be limited to special occasions “such as weddings, funerals, illnesses, holidays, and ground-breaking ceremonies.” There is no such special occasion here that resulted in the award of the annual pass.

The Ethics Board also concludes, based on the information presented, that § II.A.2.e., which excepts “awards that are publicly presented by a nonprofit organization in recognition for public service” does not apply here. Even if Kitsap Transit is considered a nonprofit organization for purposes of this subsection, the annual pass does not appear to have been “publicly presented.” Instead, it appears to have come in the mail from the clerk of the Kitsap Transit Board. Therefore, § II.A.2.e does not apply.

¹ This has taken more than 45 days due to a mistaken delay in the initial review.

The Ethics Board believes the other exceptions provided in § II.A.2 and § II.A.3. clearly do not apply and do not require additional explanation.

Because Article II, Section A prohibits acceptance of all gifts unless excepted by § II.A.2 or § II.A.3, and no exception applies here based on the facts presented to the Ethics Board, acceptance and use of the annual pass would violate the Ethics Program.

III. Publication

The Clerk is directed to publish this advisory opinion in accordance with Article III, D.2 and D.3 of the Ethics Program.