



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

BOARD OF ELECTIONS

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July 9, 2018

Mr. Joseph A. Trillo
643 East Avenue
Warwick, RI 02886

*Re: Advisory Opinion – Reportability under R.I. Gen. Laws § 17-25-1 et seq. of
Parking Spaces for Advertising Vehicles*

Dear Mr. Trillo:

This letter is in response to your June 22, 2018 request for an advisory opinion from the Board of Elections ("Board"). Your letter asks the following two questions:

Is it permissible and within the legal confines of RI's campaign finance laws for my campaign to park an advertising vehicle displaying my campaign message, or place a large sign, in a highly visible area, on a piece of commercial property, which doesn't rent parking spaces out?

Secondly, is it permissible and within the legal confines of RI's campaign finance laws for my campaign to park an advertising vehicle displaying my campaign message, or place a large sign, in a highly visible area, on a piece of private property, which doesn't rent parking spaces out?

The Board interprets this question as asking whether the act of parking an advertising vehicle or placing a large sign under the circumstances you describe is a reportable contribution to you under R.I. Gen. Laws § 17-25-1 *et seq.*

With regards to commercial properties, the Board assumes you are entering the properties on the same terms and to the same extent as other members of the public do.

This response is provided to you and your campaign, and the facts and assumptions set forth in your letter, both as they relate to the nature of the properties and the fact that these properties do not charge rent to the general public, are assumed to be true for purposes of this response.

As a preliminary matter to answering your question, the Board is required to determine whether the activities you describe are contributions as defined in R.I. Gen. Laws § 17-25-3. Therefore, the Board's analysis must begin with an examination of the governing statutes. Rhode Island General Laws § 17-25-3 contains the following definitions:

(4) "Contributions" and "expenditures" include all transfers of money, credit or debit card transactions, on-line or electronic payment systems such as "pay pal", paid personal services, or other thing of value to or by any candidate, committee of a political party, or political action committee or ballot question advocate. A loan shall be considered a contribution of money until it is repaid.

(8) "In-kind contributions" means the monetary value of other things of value or paid personal services donated to, or benefiting, any person required to file reports with the board of elections.

(9) "Other thing of value" means any item of tangible real or personal property of a fair-market value in excess of one hundred dollars (\$100).

When the language of a statutory provision is clear and unambiguous, as the definitions set forth above, the Board must give the words their plain and ordinary meaning. *5750 Post Road Medical Offices, LLC v. East Greenwich Fire District*, 138 A.3d 163, 167 (R.I. 2016).

First, the Board interprets your reference to "private property" to mean residential property. The Board will also assume that with regards to residential properties, the owner of the property is an individual or group of individuals¹ volunteering the use of the property in order to support your campaign. Where the homeowner does not rent out the property to third parties, the Board would consider that access to such property to have no monetary value and therefore would not be a reportable contribution under Chapter 25 of Title 17. The Board notes that it is a longstanding practice that individual volunteers who host events for candidates in their homes are not asked to itemize the value of the use of their homes as a reportable contribution. The Board also notes that under 11 CFR 100.75, the Federal Elections Commission states that no contribution results from the use of a volunteer's real or personal property to a candidate for candidate-related activity. The Board would consider an individual volunteering the use of land for an advertising truck to be equivalent to an individual volunteering use of a home or yard for a campaign event, or the use of the homeowner's lawn for the use of a campaign sign, and therefore no contribution would result.

On the other hand, the use of commercial property brings into focus the monetary value of the spaces provided. However, the Board takes note that your question is narrowly limited to commercial properties that do not rent out spaces or charge money for the use of the parking

¹ Such as spouses, tenants in common, or joint tenants who own the property in their own names.

space. The Board assumes this to refer to commercial parking lots that offer free parking to all users, which you or your campaign can use on the same terms and to the same extent as all other individuals. Where there is no charge assessed and also no history of assessing charges for use of the lot, the Board would not consider your campaign's use of the lot to be a reportable contribution. However, if the parking space is typically rented and you are permitted to use the lot for free or a reduced cost, or if your use of the lot is on any different terms than the use of the rest of the public, such a use would likely constitute a "thing of value" as defined under R.I. Gen. Laws § 17-25-3, and therefore constitute a reportable contribution. Furthermore, under R.I. Gen. Laws § 17-25-10.1, it is unlawful for a "business entity" as defined at R.I. Gen. Laws § 17-25-3(1) to make, or for you or campaign to accept from a business entity, *any* kind of contribution. Therefore, it would be unlawful for you to accept use real property owned by a business entity in circumstances where such a use would be a contribution.

This response constitutes the Board's opinion concerning the applicability of R.I. Gen. Laws § 17-25-1 *et seq.* to the facts, circumstances, and assumptions set forth in your request. If there are any changes in the material facts, circumstances, or assumptions presented in your request then you may not rely upon the conclusions set forth herein. Please be further advised that this analysis and the conclusions therefrom may be impacted by any subsequent change or development in the law.

Sincerely,

A handwritten signature in cursive script that reads "Diane C. Mederos". The signature is written in black ink and is positioned below the word "Sincerely,".

Diane C. Mederos
Chairwoman