



May 3, 1993

To All Members of the Legislative Assembly of British Columbia

Re Complimentary Memberships and Passes

Recently I was asked three questions on this subject. In my letter of reply I set out, in the following passage, details about the "kind" of memberships and passes that I had been asked to comment upon.

"Complimentary memberships, organizations, associations and clubs in British Columbia. No voting rights attach to such a membership but access to and use of the organizations' facilities or services are available to the holder of the complimentary membership and that will include all or some of restaurant/lounges; meeting rooms; banquet facilities; recreation facilities. The membership fee is waived but the holder of the complimentary membership must pay for services used within the facility such as for food, beverages, green fees etc. Examples given are complimentary memberships to university faculty clubs, private business/social clubs in downtown Vancouver and Victoria, community business organizations such as boards of trade and chambers of commerce and recreational clubs offering year round golf, tennis, and yachting facilities. An additional type of membership is one granted by airline companies for the purpose of allowing holders access to airline lounges at some national and international airports and thus provide to them a facility to work, telephone, meet etc. between flights.

Complimentary passes to recreational facilities or entertainment events in British Columbia. Such passes are usually limited to a specific activity and can be for either one occasion or for a term - often a season or a year. Examples cited are season passes to a ski facility, a race track or to scientific exhibits with accompanying parking privileges."

I then quoted, as I do now, the applicable section of the Members' Conflict of Interest Act;

- "6.(1) A member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.
- (2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

2.

- (3) Where a gift or personal benefit referred to in subsection (2) exceeds \$250.00 in value, or where the total value received directly or indirectly from one source in any 12 month period exceeds \$250.00, the member shall immediately file with the commissioner a disclosure statement, in the form prescribed by the regulations indicating
- (a) the nature of the gift or benefit
 - (b) its source and
 - (3) the circumstances under which it was given and accepted."

The three questions I was asked and my answers to them are as follows;

1. Question:

Are complimentary memberships and passes, of the kind described in this memo, considered to be a gift or personal benefit "connected directly or indirectly with the performance of the member's duties of office"?

Answer:

Yes. If the recipient did not hold public office the memberships and passes would not be given to him/her. That fact puts the answer to the question beyond doubt.

2. Question:

If the answer to question (1) is "yes", do such passes and memberships, as a general rule, fall within the section 6(2) exemption as being "an incident of the protocol or social obligations that normally accompany the responsibilities of office"?

Answer:

Some do fall within the subsection (2) exemption and some do not. Into the former category I place those that provide the opportunity for the member to more efficiently and effectively carry out his/her responsibilities of office. That includes memberships to faculty and business/social clubs where meetings can be held, business guests can be served lunch or dinner in an atmosphere conducive to conducting useful discussion of an official or business nature and in a private or semi-private environment.

I would also say "yes" to a membership in the type of community business organization mentioned above if the member is of the view that attendance at its meetings and receipt of its publications will assist in carrying out his/her responsibilities of elected office. I also give the green light to holding the privileges that attach to use of airline lounges at airports. They can provide a useful adjunct to the members' working environment through the availability of privacy, telephones and a quiet place to read documents and briefing books while waiting for the next flight to depart.

Into the "no" category go season or year long passes to sporting facilities and entertainment centres. These are not work related activities. Complimentary year long play on tennis courts, golf courses and entry to race tracks are unrelated to protocol and social obligations of office and are, in fact, I believe, the very

kind of gift or benefit that the Legislature in its wisdom in section 6(1) says shall not be permitted. Incidentally, in having given approval to membership in faculty, business/social clubs, I do not intend to approve accompanying use of recreational facilities of the club on a year round complimentary basis. If a club membership carries privileges of that kind - they should either not be used or, if they are, they should be paid for by the member out of his or her pocket as they are facilities of pleasure unrelated to the positive working environment component that has caused me to say "yes" to club memberships.

There is some middle ground here. Often a member will receive passes to special events within his/her constituency or a minister will be invited as a guest to an event because of its relationship to his/her ministerial responsibilities. Such passes may be tied to an event such as an official opening or a long service presentation where the public office holder may be called upon to participate in the program or to be otherwise recognized. The event may include the availability to the member and his/her family, following the cutting of the ribbon, of facilities such as ski slopes, museum exhibits or a cultural performance. Such invitations may not always be on an official occasion but rather the ownership of the facility or the sponsor of an event may want the member to attend on one or two occasions so as to be familiar with the services offered in the community. I see nothing wrong with the acceptance of complimentary passes and invitations in instances such as those discussed in this paragraph. A member should not be expected to buy two opening night tickets to everything in his/her riding but since many sponsoring bodies are generally honoured by the presence of the elected representative of the citizens of the community, it is appropriate, in my judgment for the member to accept a complimentary invitation to attend such an event with his/her guest. In my opinion, attendance at such events, if time and interest combine to allow the member's presence, falls within the exemption of section 6(2).

3. Question:

If the answer to question (2) is "no", that is, that these kinds of memberships/passes, as a general rule, are not exempt under section 6(2) of the Act, could you provide guidance respecting the criteria to be applied in determining the kinds of memberships/passes that could reasonably be considered to be "an incident of the protocol or social obligations that normally accompany the responsibilities of office"?

Answer:

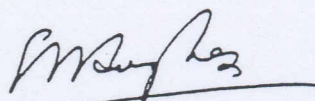
I believe I have given the answer to this question within the answer to question # 2. Within that answer some guidelines are set out. It is impossible to cover every situation but I believe the parameters are there for what is and what is not acceptable. As always, specifics, as and when they arise, can be referred to this office for further consideration and response.

4.

I would suggest that your use of any complimentary membership or complimentary pass that you now hold, conform with the guidelines I have suggested in the answers to the three questions. If in the future you receive a complimentary membership or pass that cannot be used within those guidelines, it would be my suggestion that it be returned with an expression of appreciation and thanks and an accompanying explanation why use cannot be made of it by you.

Members must remember that where the exemption in section 6(2) is applicable, they must give notice to this office pursuant to section 6(3) in instances where the value of what has been received exceeds \$250.00.

Yours truly,

A handwritten signature in dark ink, appearing to read "E.N. Hughes", written over a horizontal line.

E.N. (Ted) Hughes
Commissioner of
Conflict of Interest