
INQ 16-43 Marko

From: Perez, Martha D. (COE)
Sent: Wednesday, February 10, 2016 4:06 PM
To: Thomas Marko <thomasmarko17@gmail.com>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: RE: Thomas Marko, Former County employee at WASD (Two Year Rule) INQ 16-43

Dear Mr. Marko,

As a former County employee, subject to the two-year post-employment restrictions, you inquire whether you may process permit applications on behalf of companies planning a construction project in the City of Miami but which require County permit approvals through DERM and WASD.

Section 2-11.1(q) of the County Ethics Code (Two Year Rule) prohibits former County employees, for two years after their County service has ceased, from **lobbying** any County officer, personnel or employee, in any application, bid, contract, etc. For purposes of this section, "lobbying" by former employees contemplates a broad interpretation of lobbying activities. Interactions with County staff in order to obtain permits for clients may be considered lobbying, depending on the circumstances.

A former County employee may engage in interactions with County staff which are **ministerial** in nature, such as, *filing/ submitting permit applications, confirming receipt of permit applications, obtaining documents, asking a procedural question or requesting information about a permit*. See RQO 04-33. However, any attempt to persuade County staff, whether in person or by written communication, to take a particular course of action or to make a determination, are considered lobbying. See RQO 02-139. Consequently, it is recommended that you refrain from meeting with County staff in order to persuade the expedited review or approval of permits, or discuss reviews or modifications related to the permits as these discussions may be considered lobbying.

This opinion is based on the facts as presented and limited to your inquiry regarding County permit application/processing. If any of these facts change, please contact us.

Sincerely,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler St. Suite 820
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(305)350-0656
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From: Thomas Marko [<mailto:thomasmarko17@gmail.com>]
Sent: Wednesday, February 10, 2016 1:24 PM
To: Perez, Martha D. (COE)
Cc: Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE)
Subject: RE: Thomas Marko, Former County employee at WASD (Two Year Rule) INQ 16-06

Good afternoon Ms. Perez - once again, thank you for your below direction on RFP 00276.

I have another question on other possible work for myself. A different company just contacted me (unsolicited) and they asked me if, as a consultant to them, would I process permit applications to both DERM and WASD on their planned commercial construction project to be located in the city of Miami. The city of Miami would be the predominant permitting government; however, the County would issue several construction and operating permit approvals on the project via DERM and WASD. As Development Coordinator and Special Assistant for WASD from Aug 2013 thru Sept 2015, and before that as countywide Development Coordinator (from the former County Executive Office) from December 2005 thru Aug 2013, am I precluded per the Two-Year Rule from processing said permit applications? Any such processing would likely include my direct interface with approving/issuing staff.

I await your response Ms. Perez.

Thanks, Tom Marko 786-255-5747

From: perezmd@miamidade.gov
To: thomasmarko17@gmail.com
CC: CENTORI@miamidade.gov; GDIAZGR@miamidade.gov
Subject: Thomas Marko, Former County employee at WASD (Two Year Rule) INQ 16-06
Date: Tue, 12 Jan 2016 18:49:03 +0000

Dear Mr. Marko,

As a former County employee, you have inquired whether §2-11.1(q) of the County Ethics Code (The "Two-Year Rule") would preclude you from being employed with a current County vendor who is also pursuing future contracts with the County.

As background, you were employed until September, 2015, as a Development Coordinator and Special Assistant for Miami-Dade County Water & Sewer Department (WASD). Your job duties in the County position included the oversight of WASD's New Business Office, facilitating private developers in the expansion and upgrade of WASD's countywide water and sewer systems. You were also a selection committee member on a current permitting system project acquisition contract. You have been offered employment with Woolpert, a company which specializes in the collection and processing of mobile mapping data. Woolpert is a County vendor and will also be involved as a sub-contractor on an upcoming County bid. The County department which will be overseeing that contract (RFP 00276) is either RER or ITD. You would begin employment upon the project selection and commencement of contract negotiations, helping Woolpert (provided it is part of the team selected) complete the project over the course of time.

The County Ethics Code at § 2-11.1(q) ("Two-Year Rule") provides that,

no person who has served as an elected county official, County Manager, senior assistant to the County Manager, department director, departmental personnel or employee shall for a period of two years after his or her County service has ceased, **lobby** any County officer, departmental personnel or

employee in connection with any judicial or other proceeding, application, **RFP**, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge or accusation in which Miami-Dade County or one of its agencies or instrumentalities is a party or has any interest whatever, direct or indirect.

Lobbying activities under the “Two Year Rule” are more expansive than those in the general lobbying ordinance. Whereas the general lobbying ordinance at §2-11.1(s) of the County Ethics Code characterizes lobbying as advocating for actions or decisions that will foreseeably be decided by the BCC, Mayor or County board, the “Two Year Rule” includes advocating for actions or decisions that may be made at the sole discretion of **any** County personnel and not just a voting body. For example, **you are prohibited from arranging or participating in any meetings with County officials and staff on behalf of Woolpert if the meetings are convened for the purpose of influencing elected officials or County employees to take an official action or make an official decision.** See RQO 12-09

While the “Two Year Rule” prohibits you from LOBBYING County officials and employees on behalf of your employer for two years, the following activities **are not** considered lobbying for purposes of the “Two Year Rule”:

- Imparting institutional knowledge and history of the County’s capital improvement programs to your employer and its team . See RQO 12-09;
- Participating in meetings with the County on behalf of your employer to discuss County practices and procedures *as long as the meeting is held for informational purposes only and not for the purpose of influencing any recommendations or other actions on the project.* See RQO 12-09;
- Estimating project costs, *as long as you have no involvement with City officers or staff directly, through face to face meetings, telephone calls, emails, or other communications, in negotiating changes for any purpose, including negotiating change orders.* See RQO 12-09
- Providing support staff to the County through your employer , *as long as you do not attempt to influence County officials or employees regarding the terms of the arrangement.* See RQO 12-09;
- Providing management and oversight of County projects. See RQO 08-18;
- Coordinating activities between the County, outside agencies and County contractors and sub-contractors;
- Meeting with County staff and appearing before County boards and committees provided any appearance is related to an **awarded contract.** See RQO 11-24

Former County employees are cautioned that they may not engage in any activity which would require them to disclose confidential information acquired by reason of their official County position, nor use such information directly or indirectly for their personal gain or benefit. See §2-11.1(h), County Ethics Code.

I am attaching RQO 12-09 and the Ethics Commission “ FAQ’s Two Year Rule 2013” for informational purposes. This opinion is based on the facts as described herein. If any of these facts change, please contact us.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

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(305)350-0656

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Good morning Ms. Perez - I appreciate your timely query and offer the following in response. Woolpert is the company that has offered me employment contingent on the below-described. They have done and are doing business with the County (for years - GIS, I.T., etc.); and, they tell me they will be involved (as a sub-contractor) in the upcoming bids due by vendors to the County on January 15 for RFP 00276 - Enterprise Permitting, Licensing, Inspections, Code Enforcement, Land Management. I believe either the Dept of RER or ITD is the Dept overseeing the planned contract. As offered, my start date would commence upon project selection and upon commencement of contract negotiations wherein Woolpert is part of any team selected for the project. My role with Woolpert, as I understand it, would begin after selection and involve helping Woolpert bring about the project over the course of time through ongoing use by the County. As an alternative, but not offered to me, Woolpert has discussed bringing me on board to help with other existing Miami-Dade County and other company work wherein they believe I would be a good fit. But this alternative is only at a beginning discussion point.

Thank you, Tom Marko

From: thomas marko [<mailto:thomasmarko17@gmail.com>]
Sent: Thursday, January 07, 2016 3:51 PM
To: Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE); Perez, Martha D. (COE)
Subject: Request for opinion

Dear Mr. Centorino, Ms. Diaz-Greco, and Ms. Perez:

As a recent employee of the Miami-Dade County management team, I am asking, please, for your guidance and opinion on any restrictions I may have for employment. I am considering employment with a County vendor who has current County contracts and who is pursuing ongoing procurements with Miami-Dade County. Is there any conflict or restrictions regarding my potential involvement? Can I work on County projects, and be included in vendor proposals as long as I do not personally lobby any County staff within the 2-year restriction?

Based on my employment history with the County, as follows, I am likely under the jurisdiction of the County Ethics Code and, thus, request your opinion.

August 2013 to late September 2015:

Development Coordinator and Special Assistant; Miami-Dade Water and Sewer

I oversaw WASD's New Business that facilitated private developers in expanding and upgrading WASD's countywide water and sewer systems. I was named as a selection committee member on an Enterprise permitting system project acquisition (in process now), which of course ended with my separation from the County in September.

December 2005 to August 2013:

Development Coordinator

Served as the County's countywide Development Coordinator out of the former County Executive Office. During that time, on behalf of the County Manager, I was charged with bringing permitting departments and processes together, reducing bureaucracy, and tying together related computer processes. I also facilitated development and permitting approvals on hundreds of development projects.

Thank you and I look forward to your response. I may be contacted via reply email or my cell 786-255-5747 if you have any questions.

Sincerely,

Thomas E. Marko
5976 SW 50 Terrace
Miami, FL 33155

ThomasMarko17@Gmail.com

