

**FILE COPY****ETHICS COMMISSIONERS**

**Kerry E. Rosenthal, Chairperson**  
**Charles A. Hall, Vice Chairperson**  
**Elizabeth M. Iglesias**  
**Knovack G. Jones**  
**Robert H. Newman**

**ROBERT A. MEYERS**  
 EXECUTIVE DIRECTOR

**CHRISTOPHER R. MAZZELLA**  
 INSPECTOR GENERAL

**ARDYTH WALKER**  
 STAFF GENERAL COUNSEL

July 27, 1999

David Wolpin  
 Weiss, Serota, Helfman, Pastoriza and Guedes  
 2665 South Bayshore Drive  
 Suite 420  
 Miami, Florida 33133

Dear Mr. Wolpin:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 26, 1999 and rendered its decision based on the facts stated in your letter.

You requested an opinion regarding the applicability of the Cone of Silence ordinance to municipalities.

In your letter, you advised the Commission that Weiss, Serota et, al., serves as City Attorney for the City of Homestead. The firm questions the applicability of the Cone of Silence to municipalities because the title of the ordinance refers to "county competitive processes" and the recitals in the preamble to the legislation refer only to the county. The firm further contends that the county failed to follow the requirements of Rule 5.06(j) of Section 2-1 of the Code of Miami-Dade County which requires a six week interval between first reading and the public hearing on matters that affect municipalities.

The Commission found that the Cone of Silence applies to municipalities because the title indicates that it is an amendment to the Conflict of Interest and Code of Ethics ordinance which applies to

municipalities. Section 2-11.1(a) which designates 2-11.1 as the Conflict of Interest and Code of Ethics ordinance specifically provides that the section shall be applicable "to employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned. References in the section to County personnel shall therefor be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to."

The Cone of Silence ordinance 98-106 states in the title that it is an "Ordinance Establishing a Cone of Silence for County Competitive Processes; Amending Section 2-11.1 of the Code of Miami-Dade County, Florida, Relating to Conflict of Interest and Code of Ethics". The amendment to the Cone of Silence, Ordinance 99-1, similarly states that it is an amendment to Section 2-11.1 of the Code of Miami-Dade County.

Since the provisions of the Conflict of Interest and Code of Ethics ordinance explicitly apply to municipalities, all amendments to that section of the code also apply to municipalities unless the language of the amendment expressly excludes them.

Further, Rule 5.06(j) does not affect the application of the ordinance to the municipalities. Rule 5.06(j) of Section 2-1 does state that there should be six week period between first reading and second reading for any ordinance which would affect municipal officers and employees but the ordinance specifically provides that " this subsection shall be construed as directory only and failure to comply with the provisions hereof shall not affect the validity of any ordinance". Therefore, the notice requirement does not affect the legality of the ordinance as applied to the municipalities.

Accordingly, the Commission on Ethics and Public Trust finds the Cone of Silence ordinance applies to municipalities because the Cone of Silence amends the Conflict of Interest and Code of Ethics ordinance which explicitly applies to municipal officers and employees.

If you have any questions regarding the opinion, please call Robert Meyers, Executive Director at (305) 579-2954 or Ardyth Walker at (305) 579-2653.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", followed by a horizontal line extending to the right.

ROBERT MEYERS  
Executive Director