



ETHICS COMMISSIONERS

June 24, 2009

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STAFF GENERAL COUNSEL

Erik Agazim
1800 Sunset Harbour Dr., Suite 1010
Miami Beach, FL 33139

Via First Class Mail and email at oceanicdevelopments@yahoo.com

Re: RQO 09-22
Miami-Dade County Code, Sec. 2-11.1 (c)(3)
City of Miami Beach Standards of Conduct, Secs. 2-459, 2-487, 2-489

Dear Mr. Agazim:

The Commission on Ethics & Public Trust considered questions posed by you and rendered an ethics opinion at a public meeting held on June 23, 2009.

In correspondence dated June 16, 2009, you asked if ethics codes in the County and City of Miami Beach prevented you, as an appointed board member on the City of Miami Beach Capital Improvements Project Oversight Committee (CIPOC), to enter into contracts with the City of Miami Beach under the following circumstances:

- **Real Estate Development.** As a partner in a joint-venture entity not yet formed, may you respond to an RFP issued by the City of Miami Beach to construct affordable housing through a grant provided by the federal government?
- **Law Enforcement Equipment Vendor.** As owner of NPEE, L.C., may you respond to requests for equipment by the City of Miami Beach Police Department?

The Ethics Commission found that no ethics conflicts would be created under Section 2-11.1 (c)(3) of the County Ethics Code if you entered into either or both of the above-referenced relationships with the City of Miami Beach.

The County Ethics Code allows board members to contract with their respective governments as long as the board on which the member serves has no authority over the contract. This means that any contract you enter into with the city may not be "subject to the regulation, oversight, management, policy-setting or quasi-judicial authority of the board" of which you serve as a member. County Code at § 2-11.1 (c)(3).

The CIPOC offers the City of Miami Beach non-binding advice on how best to carry out projects funded by general obligation bonds. Projects supported through general obligation bonds include physical improvements to neighborhoods, streets, parks, beaches, public safety facilities, and other facilities. The CIPOC does not regulate,

oversee, manage, set policy, or exert any quasi-judicial authority over RFPs related to constructing affordable housing or to the sale of equipment to the City of Miami Beach Police Department.

In addition to certain limitations imposed on advisory board members under the County Code, please be aware of prohibitions under the City of Miami Beach Standards of Conduct. In particular, the following sections of the city code may apply in the future to the circumstances you've described:

- Under the Miami Beach Code at Section 2-459, board members are prohibited from lobbying the city commission or any city agency on behalf of third parties, including their own corporations, with respect to any agency action sought by the third party. (This prohibition, however, does not prevent potential vendors from responding to queries posed by city agents conducting information gathering.)
- Under the Miami Beach Code at Section 2-487, city vendors are prohibited from giving campaign contributions directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of city mayor or city commissioner.
- Under the Miami Beach Code at Section 2-489, real estate developers in the city are prohibited from giving campaign contributions directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of city mayor or city commissioner.

This opinion construes the Miami-Dade Conflict of Interest & Code of Ethics Ordinance and portions of the City of Miami Beach Standards of Conduct, but is not applicable to any conflict under State law or HUD regulations. Inquiries regarding possible conflicts under State law should be directed to the State of Florida Commission on Ethics. HUD queries should be addressed to the U.S. Department of Housing and Urban Development.

Please feel free to contact or me or Staff Attorney Victoria Frigo if we can be of further assistance in this matter.

Sincerely,



ROBERT MEYERS
Executive Director

copy: Jean Olin, Special Counsel
City of Miami Beach
email at JeanOlin@miamibeachfl.gov

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RQO 09-22
Erik Agazim

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