



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case K15-022	Case Name: Baptist Health urgent care application	Date Open:	Date Closed:
Complainant(s):	Subject(s): Miami Beach Planning Board members Jonathon Beloff, Randy Gumenick	March 11, 2015 Date: <u>8/25/2015</u>	CASE CLOSED

Allegation(s):

Newspaper reports raised questions as to whether Miami Beach Planning Board members Jonathan Beloff and Randolph Gumenick might have had a voting conflict with respect to a zoning application for an urgent care medical center to be operated by Baptist Health South Florida, which is looking to make inroads into the Miami Beach healthcare market. It was noted in the reports that Beloff and Gumenick have ties to Mt. Sinai Medical Center, the dominant healthcare provider on Miami Beach presently and historically. The 63,500-square-foot project is slated for construction along the 700 block of Alton Road.

Relevant Ordinances:

The Miami-Dade County Code of Ethics and Conflict of Interest Ordinance states in applicable part, Sec. 2-11.1(v), that no person serving on a municipal or other advisory board “shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves, and the board member has any of the following relationships with any of the person or entities appearing before the board ... officer, director, partner, of counsel ...”

Investigation:

Interviews

Randolph Gumenick, developer
Member of Miami Beach Planning Board
August 21, 2015

Mr. Gumenick met with this investigator and Ethics Advocate Michael Murawski at the offices of COE to discuss any potential conflict he might have stemming from his involvement with Mt. Sinai. He said he was an “invited guest” of the Mt. Sinai executive committee, comprised of 25 to 30 individuals. He said the committee was the equivalent of a board of directors, and that he was not compensated for attending quarterly meetings lasting two to three hours. He said on one occasion, a question was raised about the Baptist Health urgent care proposal on Alton Road, but that Mt. Sinai’s CEO, Steve Sonenreich, told the committee members, “We can’t talk about it,” citing Gumenick’s position with the Planning Board. Gumenick said he offered to leave the meeting, but that no further discussion ensued.

Mr. Gumenick said he was never individually contacted by anybody at Mt. Sinai with respect to the Baptist Health project and that he tried to act in the best interest of the general public at all times. He said Mt. Sinai did communicate with all members of the Planning Board, sending them materials opposing the proposed urgent care center. But he said that nobody from Mt. Sinai attempted to influence him individually in order to get him to vote against the urgent care application. He said he did have concerns about the project, but that they were unrelated to competitive concerns for market share between Mt. Sinai and Baptist Health.

Mr. Gumenick said his concerns stemmed from the manner in which developer Russell Galbut originally presented the project – as a mixed-use retail and office facility with some medical offices on the second floor. The board approved the project, as presented, last year. He said the project dramatically when it came back before the board in January as an urgent care facility that would have medical uses on the first floor as well as upper floors.

He said he disagreed with Galbut’s contention that the revised development project should be approved “by right,” instead of needing to be re-submitted as a new project. He said he felt there were issues that should be addressed such as traffic impact and the disposal of medical waste. He said he felt the revised plan was tantamount to a “bait and switch.” He said, “My stance is that this was a material change, and we don’t know what the impact is going to be.”

Gumenick noted that he eventually voted in favor of the project, along with Jonathan Beloff, another Planning Board member with ties to Mt. Sinai. He said that because Beloff felt he didn’t have a conflict and Beloff is an attorney that he felt he didn’t have to worry about requesting an ethics opinion or advice from the Planning Board’s legal counsel. He said he worried that he might appear to have a conflict, but that he tried to act according to his conscience at all times he served in an official capacity. He said that, in conversations with Galbut, he offered to recuse himself from further participation in the matter but Galbut declined his offer.

Jonathan Beloff, attorney
Member of the Miami Beach Planning Board
August 21, 2015

In a telephone interview, Mr. Beloff stated he never saw the August 7 e-mail from COE requesting an interview. He agreed to discuss the matter by telephone, stating that he felt he had disclosed his affiliation with Mt. Sinai publicly and that he also consulted a city attorney – Eve Boutsis – with respect to any possible conflict of interest. He said he was advised by Ms. Boutsis that no such conflict existed with respect to the urgent care application.

Mr. Beloff said he served as an unpaid volunteer on the Mt. Sinai Medical Center Foundation, which he described as “the fund-raising arm” of Mt. Sinai. He said he also served on the Board of Trustees, which meets once or twice a year. He said that at no time while he attended any of these meetings – for the Foundation or the Board of Trustees – was the matter of Baptist’s entry into the Miami Beach healthcare market discussed. He said he was never asked to intervene on behalf of Mt. Sinai or to oppose the zoning application, which he later voted to approve.

Document/Audio/Video Review:

On April 22, 2015, COE reviewed video of the Feb. 24, 2015, Planning Board meeting, during which a continuance was approved on the item until May 26. The video was retrieved at the following link: <http://vp.telvue.com/player?category=Planning%20Board&id=T03249>

On May 29, 2015, COE reviewed video from the May 26 planning board meeting regarding the Request for Continuance for item No. 2151. COE also reviewed video from the Jan. 28, 2015, Planning Board meeting, at which time a request was made to seek funding from the Miami Beach City Commission for a traffic study relating to the application.

Various news accounts were reviewed including those published in the *Miami Herald* on March 10, 2015 (“As Baptist Health’s SoBe Plans Stall, Conflict of Interest Accusations Hit Planning Board”); July 25, 2015 (“Hospital giants Baptist, Mount Sinai in Miami Beach Slugfest”); and July 28, 2015 (“Miami Beach Planning Board Approves Baptist Health Urgent Care Center”). Corresponding agendas and minutes after-action reports similarly reviewed.

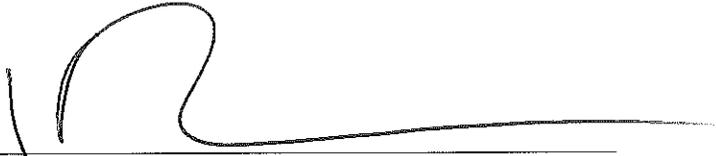
Conclusion(s):

Based on the above findings, it does not appear that either Mr. Beloff or Mr. Gumenick had a prohibited conflict under the County's ethics code.

While both serve on the Mt. Sinai Medical Center Board of Trustees in one capacity or another – Gumenick as an “invited guest” – the inquiry found no evidence of any tangible financial impact, direct or indirect, for either arising from the urgent care zoning application.

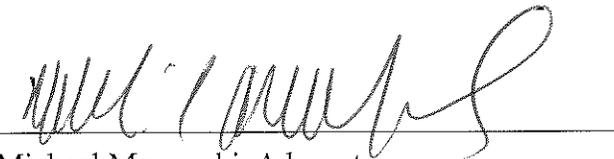
The standard to determine a conflict for members of a municipal advisory board requires that the individuals be *directly affected* by the action in question. Since neither is a salaried employee of Mt. Sinai or shareholder such a connection is highly unlikely.

The application in question was approved by the Planning Board on July 28, 2015, with both subjects voting in favor of the proposed urgent care center. Upon consultation with Ethics Advocate, it was determined the case should be closed without further action.



Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director