



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Honorable Carlos Gimenez
County Mayor

FROM: Jose J. Arrojo, Executive Director
Commission on Ethics 

SUBJECT: INQ 20-04, Elected Official and Gifted Superbowl Game Tickets
Section 2-11.1 (e), Gifts

DATE: January 31, 2020 (originally issued)
February 7, 2020 (with requester's attachment)

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding Section 2-11.1 (e) of the County Ethics Code, relating to gifts, and its possible application to a County elected official's receipt of tickets to the Superbowl game.

Facts:

Stephen Ross is a principal in South Florida Stadium, LLC and for purposes of this memorandum shall be simply referred to as one of the owners of Hard Rock Stadium, located in Miami Gardens. The Superbowl game will be played at Hard Rock Stadium on Sunday, February 2, 2020.

Carlos Gimenez is the Mayor of Miami-Dade County.

Mr. Ross has offered to personally pay for and gift Mayor Gimenez two tickets for the Superbowl game. The Mayor will be attending with his wife. The tickets for the section where the Mayor and his wife will be sitting for the Superbowl game are valued at \$4000 each.

Therefore, Mr. Ross has offered to gift, and Mayor Gimenez has accepted, two event tickets valued at \$8000.¹

It is represented by Mr. Ross, that he is not a County lobbyist and that while companies that he is affiliated with or has an ownership interest in may be County vendors or contractors, he himself is not a County vendor or contractor.

Mr. Ross has represented, through his personal financial representative, that he is paying for the gifted tickets from his personal funds and that invoices will be generated to reflect this. The gifted tickets will not be purchased by any of the various entities that Mr. Ross is affiliated with.

Mayor Gimenez is due to participate in a proclamation ceremony during the Superbowl game in his official capacity as the Mayor of Miami-Dade County, the host County for the game.

Issue:

Does Section 2-11.1 (e), Gifts, of the County Ethics Code allow Mayor Gimenez to accept the two gifted Superbowl game tickets from Stephen Ross and if so, must he report the tickets by filing a public disclosure document.

Answer:

Yes, Section 2-11.1 (e), Gifts, of the County Ethics Code allows Mayor Gimenez to accept the two gifted Superbowl game tickets from Stephen Ross and while an argument can be made that disclosure may not be required by that section, it is strongly recommended that the Mayor make a public disclosure of the gifted tickets.

Discussion:

As a preliminary matter, the Mayor is a covered person under Section 2-11.1 (b)(1) of the County Ethics Code. Also, tickets for the Superbowl game clearly constitute a gift, as they have an economic value and consist of entertainment, hospitality, food or beverage, as defined in Gifts section of the of the County Ethics Code located at Section 2-11.1 (e)(1) of the Code.

The prohibited gifts section of the Ethics Code contained in Section 2-11.1 (e)(3), provides that the County elected officials including the Mayor may not accept a gift if it is part of a *quid pro quo* transaction. Put another way, the gifted Superbowl tickets cannot be

¹ See attached clarification note from Office of the Mayor dated January 31, 2020. This attachment changes the date of the opinion. All other text remains unchanged.

solicited or accepted for an official public action taken, or which could be taken by the elected official.

Thus, while the Mayor is clearly limited by the prohibited gifts subsection of the Ethics Code, he is permitted to accept a gift outside of the described quid pro quo scenario.

If the Mayor chooses to accept Superbowl tickets, then he may be required to publicly disclose the gifts under the gift disclosure subsection of the County Ethics Code located at Section 2-11.1 9 (e)(4) of the Code. That section requires County elected officials to publicly disclose the receipt of a gift, or a series of gifts from any one person or entity having a value of \$100 or more.

The Gifts section of the Ethics Code does provide in the Exceptions subsection, at Section 2-11.1(e)(2)(f) of the Code, that gifts solicited or accepted by County elected officials “in the performance of their official duties” as part of “official business” are not considered reportable gifts.

Presenting County proclamations to event sponsors or third parties at events, receiving official recognition on behalf of the County by event sponsor or a third party, or attending meetings with sponsors or other persons to affirmatively promote Miami-Dade County, could constitute “official duties” performed by the elected official such that the entrance or attendance might constitute an exception to the gift disclosure requirement described above.

Theoretically, the Mayor could avail himself of the exceptions subsection of Section 2-11.1 (e), of the Ethics Code and decline disclosure. However, the Ethics Commission has made clear that something beyond simple attendance as an elected official is required and that there should be the performance of some bona fide official function performed by the County elected official.

Thus, in abundance of caution, and to promote transparency in local government, County officials accepting free tickets to the Superbowl game, or any related events, are encouraged to report them.

In this instance, it has been reported that the Mayor will not avail himself of any of the gift disclosure provisions and has affirmatively stated that he will publicly disclose the game tickets.

The County Ethics Commission does not have the authority to interpret or enforce the Florida Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes (State Ethics Code). Nevertheless, a comment on Section 112.3148, Florida Statutes, is merited.

That section prohibits County elected officials from *soliciting* a gift from a lobbyist who has lobbied the official or the County within the previous twelve months or from a County vendor. As regards the lobbyist, the gift bar also extends to the lobbyist’s principal,

partner, employer, or firm. The official is prohibited from *accepting* the gift from the same parties if they are currently engaged with the County.

As is noted above, Mr. Ross has represented that he is not a County lobbyist or vendor as such it would appear that the above referenced provision of the State Ethics Code are inapplicable.

Opinion:

Section 2-11.1 (e), Gifts, of the County Ethics Code allows Mayor Gimenez to accept the two gifted Superbowl game tickets from Stephen Ross inasmuch as there is no evidence or suggestion that the offer or acceptance of the gift is part of a quid pro quo transaction.

Additionally, while an argument can be made that disclosure may not be required by that section, it is strongly recommended that the Mayor make a public disclosure of the gifted tickets. The Mayor has agreed to publicly disclose the gifts pursuant to the required disclosure section of the gifts section, found at Section 2-11.1 (e) (4), of the County Ethics Code.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only. While state statutes may be referenced, it is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.

Arrojo, Jose (COE)

From: Arrojo, Jose (COE)
Sent: Friday, January 31, 2020 10:33 PM
To: Tallman, Nicole (Office of the Mayor)
Subject: Re: INQ 20-04

Dear Ms. Tallman:

Good evening. Thank you for your note regarding the referenced INQ 20-04.

The facts relayed above do not change the opinion that has been previously provided to the Mayor. As regards the application of the County Ethics Code to the transaction he is considering, again our opinion remains the same.

We will notate our opinion to reflect the receipt of your email and it's contents.

Best regards,

Jose Arrojo

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From: Tallman, Nicole (Office of the Mayor) <nicole.tallman@miamidade.gov>
Sent: Friday, January 31, 2020 9:59:50 PM
To: Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>
Subject: INQ 20-04

Dear Mr. Arrojo:

In paragraph three of the Facts section of your opinion (INQ 20-04), you state: "Therefore, Mr. Ross has offered to gift, and Mayor Gimenez has accepted, two event tickets valued at \$8,000."

Mayor Gimenez requested an ethics opinion because he wanted to know whether he could accept the tickets. Put differently, the Mayor did not accept the tickets prior to the issuance of the ethics opinion, as indicated in your opinion.

Therefore, I would be grateful if you would clarify INQ 20-04.

Respectfully,

Nicole Tallman
Director of Policy and Legislative Affairs
Miami-Dade County Office of the Mayor
305-375-5227 (office)
miamidade.gov/mayor
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