



Via First Class Mail
and
email at taverasl@miamisprings-fl.gov

ETHICS COMMISSIONERS

November 25, 2009

Kerry E. Rosenthal, CHAIRPERSON
Dawn E. Addy, VICE CHAIRPERSON
Magda Abdo-Gomez
Judge Seymour Gelber
Erica Wright

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

Lourdes Taveras, Code Compliance Officer
City of Miami Springs
201 Westward Dr.
Miami Springs, FL 33166

Re: INQ 09-183

Dear Ms. Taveras:

In correspondence to our office on November 16, 2009, you stated that the Building Department in the City of Miami Springs is preparing to hire construction inspectors, both as employees of the city and as independent contractors.

A long-standing custom in Miami Springs prohibits building inspectors from obtaining building permits in the city and from engaging in building projects within the city as private licensed contractors during the time they work for the city as building inspectors.

You asked the Ethics Commission to establish the legal basis for this prohibition—for both city employees as well as for independent contractors.

The Miami-Dade County Conflict of Interest and Code of Ethics at § 2-11.1 (j) states the following:

Conflicting employment prohibited. No [commissioner, autonomous personnel, quasi-judicial personnel, advisory personnel, or employee] shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.

This prohibition is based on the first principles on which all government ethics rules are founded, *i.e.*, that public employees are agents of the people and hold their positions for the benefit of the public; that public office is never to be used for private gain; and that private economic

considerations may never override the faithful discharge of public responsibilities.¹

The Ethics Commission has discussed these issues at length in RQO 08-29, involving the hiring of a construction manager in the City of Miami, and in RQO 08-45, involving the hiring of a construction advisor in the City of Miami Beach.

In the above-referenced cases, both individuals agreed to follow the provisos listed below for the duration of their employment. Similarly, your city may wish to incorporate any or all of these provisos as part of the employment contract for building inspectors as well as for contracts between the city and its independent contractors.

MEASURES AGREED TO BE UNDERTAKEN

- Neither I, personally, nor the private construction company with which I am affiliated will apply for, or be issued, building permits in the City of Miami Springs. Nor will I, personally, nor will the private construction company with which I am affiliated engage in any construction work within the city limits of the City of Miami Springs.
- Subcontractors working for me, personally, or for the private construction company with which I am affiliated will not apply for, nor be issued, building permits in the City of Miami Springs *on my behalf or for any private projects associated with me.*
- Neither I, personally, nor the private construction company with which I am affiliated will provide services to any clients or subcontractors currently engaged in construction for the City of Miami Springs or for any who are reasonably anticipated to engage in construction for the City of Miami Springs, regardless of where the private construction project is expected to take place.
- A list of all construction projects, subcontractors, and clients associated with me, personally, and with the private construction company with which I am affiliated will be submitted by *July 1st of each year* to the City of Miami Springs' attorney's office for review. The County Ethics Commission may assign an investigator to monitor any or all of these projects.
- Neither I, personally, nor the private construction company with which I am affiliated will use any government resources to conduct

¹ Other relevant sections of the Miami-Dade County Conflict of Interest & Code of Ethics Ordinance include §§ 2-11.1 (g) Prohibition on exploitation of official position, (h) Prohibition on disclosure of confidential information, (k) Prohibition on outside employment and disclosure requirements, (n) Prohibition on official actions involving personal financial interests, and (p) Prohibition on recommending professional services.

outside employment. Additionally, I will limit my work in outside employment to weeknights and weekends, after government hours only.

- Since I am not available to conduct private business during regular business hours, I will either appoint a current employee or hire an individual capable of handling the day-to-day operations of my private company and provide this person's name to the City of Miami Springs' City Attorney.
- I will submit a "Request for Outside Employment" statement annually to the City Clerk indicating my supervisors' approval of my outside employment
- I will file an "Outside Employment [Income] Statement" with the City Clerk by July 1 of each year indicating my outside employment income and other related information.

The City of Miami Springs is advised that approving outside employment for building inspectors who seek to work privately as general contractors may cause frequently recurring conflicts between a building inspector's private interests and the performance of his public duties.

Please feel free to contact me if I can be of further assistance.

Sincerely,



VICTORIA FRIGO
Staff Attorney