



Via First Class Mail  
and  
email at [ker@rrrklaw.com](mailto:ker@rrrklaw.com)

November 10, 2010

**ETHICS COMMISSIONERS**

Kerry E. Rosenthal, CHAIRPERSON  
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Judge Seymour Gelber  
Nelson Bellido

**ROBERT A. MEYERS**  
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Re: INQ 10-181

Dear Mr. Rosenthal:

In an email to our office on November 8, 2010, you asked if your recent activities at a public meeting in the Village of Bal Harbour on behalf of your client, Church by the Sea, constitute "lobbying" as defined by the Miami-Dade County Code at Sec. 2-11.1 (s). The Code of Bal Harbour Village at Sec. 2-301 adopts the Miami-Dade County lobbying ordinance except for lobbyist registration fees.

Based on the facts you presented, the plain meaning of the term as defined in the lobbying ordinance, and previous legal opinions issued by the Ethics Commission, we conclude that since you did not attempt to influence an official government action, decision, or recommendation, you were not lobbying when you appeared at the Local Planning Agency Meeting of the Village of Bal Harbour on October 19, 2010.

**FACTS:**

On October 19, 2010, you attended the Bal Harbour Local Planning Agency Meeting where proposed changes to the Village's Comprehensive Plan were discussed. One of the proposed land use redesignations involved real property owned by your client, Church by the Sea. Your client was not the applicant requesting that the Comprehensive Plan be amended.

At the October 19<sup>th</sup> meeting, Village Council members asked you to describe your client's position on the redesignated of its property from "institutional" to "commercial." You stated that your client took no position on the matter:

The Church is not stating tonight that it is for that change, and it is not stating that it's against the change.<sup>1</sup>

At no time did you make any requests of the Village on behalf of your client. Specifically, you stated,

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<sup>1</sup> Bal Harbour Village Local Planning Agency Meeting, Oct. 19, 2010, Audio Disc #2 at 43:15 min.

The Comprehensive Plan amendment may or may not permit a different use of the property. If a different use of the property were possible to do, it wouldn't be the Church that was requesting that different use....<sup>2</sup>

**DEFINITION OF THE TERM "LOBBYIST":**

The Miami-Dade County Code at Sec. 2-11.1 (s)(1)(b) defines "lobbyist" to mean any person, firm, or corporation employed or retained by a principal "who seeks to encourage the passage, defeat, or modifications" of an ordinance, resolution, action, or decision of Village officers, board members, or personnel.

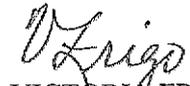
**PRECEDENT:**

The Ethics Commission has described numerous types of activities that constitute lobbying.<sup>3</sup> In every case, routine, ministerial, informational exchanges are not considered lobbying. In INQ 06-156, a professional architect was advised that "simply supplying information" to a government entity was not lobbying as long as no attempt was made "to convince or influence." The opinion continued that the lobbying rules would be triggered only if the architect attempted "to persuade local government decision-makers to take a specific course of action."

In conclusion, when you provide information, devoid of persuasion, in response to Council members' questions regarding your client, you are not required to register as a lobbyist in the Village of Bal Harbour.

If you have additional questions, please feel free to contact me or our Executive Director, Robert Meyers.

Sincerely,

  
VICTORIA FRIGO  
Staff Attorney

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<sup>2</sup> *Id.* at 45:50 min.

<sup>3</sup> Many of these opinions were given to former government employees who are prohibited from lobbying their respective governments for two years following government service. *See* RQO 08-28 to Paul Raymond, retired City of Miami Beach Chief Mechanical Inspector; RQO 04-201 to Rene Rodriguez, retired Director, Co. Housing Agency; RQO 04-34 to Danny Alvarez, former Director, Co. Transit Dept.; RQO 04-33 to Charles Danger, Director, Co. Building Dept.; and RQO 01-38 to Miguel de Grande re: Nick Mazzora, former Aide to Co. Commissioner Joe Martinez.