

Meyers, Robert (COE)

From: Meyers, Robert (COE)
Sent: Wednesday, March 03, 2010 3:49 PM
To: 'jose.villalobos@akerman.com'
Subject: RE: ATTORNEY / CLITEN PRIVILEGE -- City of West Miami / Candidate Qualification

INQ 10-48

Mr. Villalobos:

I reviewed the attached letter and presented it to our staff attorney and she and I concur with your conclusion that city commissioners who are potential adversaries of an individual whose qualifications to run for office are being questioned can vote on an item directing the administration to file a declaratory action in circuit court. Based on research we conducted, votes that are merely procedural and preliminary to later actions do not result in a special private gain to the individuals casting the votes. In the instant case, the ultimate decision concerning the residency of one of the commission candidates will be determined by the circuit court. As such, any action taken by the city commission is procedural and preliminary to judicial action and all elected officials in the City of West Miami may vote to instruct the administration to seek resolution of this matter in the circuit court.

If you have any further question or wish to discuss in greater detail, feel free to contact me at your convenience.

Sincerely,

Robert Meyers, Executive Director
Miami-Dade Commission on Ethics and Public Trust

-----Original Message-----

From: maria.garcia@akerman.com [mailto:maria.garcia@akerman.com] On Behalf Of jose.villalobos@akerman.com
Sent: Wednesday, March 03, 2010 3:21 PM
To: Meyers, Robert (COE)
Cc: cwmyaguilar@bellsouth.net
Subject: ATTORNEY / CLITEN PRIVILEGE -- City of West Miami / Candidate Qualification

Mr. Meyers,

Please see letter attached regarding the above-captioned matter.

Thank you.

Jose Villalobos

Maria Garcia
Legal Administrative Assistant to
Jose A. Villalobos, Esq.
J. Alex Villalobos, Esq.
Augusto Maxwell, Esq.
Jose F. Diaz, Esq.
AKERMAN SENTERFITT
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-----Original Message-----

From: GARCIA, MARIA [mailto:maria.garcia@akerman.com]
Sent: Wednesday, March 03, 2010 3:09 PM
To: Garcia, Maria (LAA-Mia)
Subject:

Please open the attached document. This document was digitally sent to you using an HP Digital Sending device.



JOSE A. VILLALOBOS
City Attorney

March 3, 2010

Robert Meyers, Esq.
Commission on Ethics and Public Trust
19 West Flagler Street
Suite 820
Miami, Florida 33130

Re: City of West Miami Candidate for City Commission

Dear Mr. Meyer:

This will serve to memorialize our conversation of this morning whereby I advised you that the City of West Miami will hold elections on April 13, 2010 for the position of Mayor and two City Commissioners.

There are seven candidates in total, two for the office of Mayor and five for the office of City Commissioner. A citizen of the City of West Miami has challenged the residency of one of the individuals attempting to qualify for the position of City Commissioner.

City of West Miami Code, in Section 2-25 reads as follows:

"The commission shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records but the decision of the council **in any case shall be subject to review by the courts.**"

City of West Miami Charter, in Section 3.02, reads as follows:

"The council shall be the judge of the election and qualification of its members and of the grounds for forfeiture of their office."

Our elections are at large and as I explained to you this morning, since two sitting commissioners and the Mayor are on the ballot, we might have an issue of a conflict of interest. Should one commissioner that is running for office should be voting to disqualify an individual that is running against said commissioner.

CITY OF WEST MIAMI

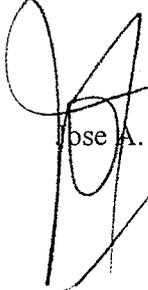
901 S.W. 62nd Avenue • West Miami, FL 33144 • Phone: (305) 266-1122 • Fax: (305) 261-9914

E-mail: pepev@aol.com

You shared my opinion that a commissioner should not vote to disqualify a potential adversary, however, since the ultimate authority will be a judge of competent jurisdiction, all commissioners should vote, instructing the administration to file a declaratory action in circuit court avoiding any appearance of impropriety and making the ultimate decision be upon the court.

I am sorry to rush you but we need to file action as soon as possible since we have such limited time before the election on April 13, 2010.

Sincerely,



Jose A. Villalobos

JAV/mg