

Memo

To: Cynthia Guerra
Program Director
Environmentally Endangered Lands Program
DERM

From: Ardyth Walker
Staff General Counsel

Date: 3/23/2011

Re: INQUIRY 11-51

I received your request for an informal opinion regarding whether a member of the Land Acquisition Selection Committee (LASC) may nominate a property for acquisition. Since this is an informal opinion, the Ethics Commission has not considered this matter. Please contact me if you want this matter placed on the Ethics Commission's April agenda.

Pursuant to Section 24.50.10 of the Code of Miami-Dade County, nominations for acquisition may be made "by any person or organization, including any federal, state, municipal or regional government agency." The code further provides that the applicant must disclose any ownership interest in any nominated property.

The Conflict of Interest ordinance permits a board member to nominate a property for acquisition but the board member may not vote on the matter. Section 2-11.1(n) prohibits a board member from taking official action regarding any matter where the board member has a financial interest. Nomination is not an official action because it may be done by any person or entity and is not done in his or her capacity as a board member. However, it would preclude the LASC member from voting on the acquisition. Section 2-11.1(m)(2) would also prohibit the board member from making a presentation before LASC if the nomination is on behalf of a corporate entity.

You are correct in assuming that the LASC member is barred from contracting with the County as long as he or she serves as a member of the board. Section 2-11.1(c)

prohibits a board member and a member of his or her immediate family from contracting with the county, individually or through a corporate entity where the board member has an interest of ten percent or more, if the department or agency is subject to the regulation, oversight, management, policy-setting or quasi-judicial authority of the board of which the person is a member.

Finally, Section 2-11.1(q) (the two-year rule) which bars former elected officials and employees from lobbying Miami-Dade County does not apply to board members. Therefore, if the board member retires or resigns, he or she would be permitted to lobby and contract with the County.

Please call me at (305) 350-0616 if you have any additional questions or need additional information.

Walker, Ardyth (COE)

From: Guerra, Cynthia (DERM)
Sent: Friday, March 18, 2011 1:50 PM
To: Walker, Ardyth (COE)
Subject: FW: EEL question re LASC member and EEL list

E-mail to/from Randy below...

From: Duvall, Robert (CAO)
Sent: Thursday, March 17, 2011 10:02 AM
To: Guerra, Cynthia (DERM)
Subject: RE: EEL question re LASC member and EEL list

Not on the basis of this alone I can't. I will have to take a look at the conflict of interest ordinance.

From: Guerra, Cynthia (DERM)
Sent: Wednesday, March 16, 2011 11:15 AM
To: Duvall, Robert (CAO)
Subject: RE: EEL question re LASC member and EEL list

Thanks. Can you confirm it would be ok for him to nominate land for the list based on:

Sec. 24-50.10. Nomination of acquisition proposals.

- (1) Public applications nominating properties for acquisition may be submitted on an annual basis by any person or organization, including any federal, State, municipal, or regional government agency. Miami-Dade County applications nominating properties for acquisition may be submitted on a semi-annual basis by any agency of Miami-Dade County.

Good luck in court.

From: Duvall, Robert (CAO)
Sent: Wednesday, March 16, 2011 11:10 AM
To: Guerra, Cynthia (DERM)
Subject: RE: EEL question re LASC member and EEL list

Cynthia, I will be in court this afternoon. Anyhow, this sounds like a Robert Meyer question.

From: Guerra, Cynthia (DERM)
Sent: Wednesday, March 16, 2011 11:08 AM
To: Duvall, Robert (CAO)
Subject: EEL question re LASC member and EEL list

I have a sitting LASC member, not subject to the term-limits, who is interested in applying to add land to our list. He owns this land, and it would likely qualify to be added. I don't see anything in the ordinance the precludes him (or anyone) from applying, but I do wonder about what comes next.

Am I correct in assuming he would have to recuse himself from the LASC vote on a recommendation to the BCC?

If BCC puts the land on our list, can we negotiate and purchase from a sitting member of the LASC or will he need to retire from the committee?

3/22/2011

If he has to retire, would he be subject to the 2-year rule?

Thanks,
Cynthia

Cynthia Guerra, Program Director
Environmentally Endangered Lands Program
Miami-Dade County - DERM

701 N.W. 1 Ct., 6th Floor

Miami, FL 33136

Phone: (305) 372-6781

Fax: (305) 372-6673

www.miamidade.gov

"Delivering Excellence Everyday"

The Miami-Dade Department of Environmental Resources Management (DERM) values your feedback as a customer. DERM is committed to its mission "to balance today's needs through responsible governance, education, and conservation, to protect our environment for tomorrow." And as part of our mission, we continuously assess and improve the quality of services provided to you. Please take a few minutes to comment on our quality of service. Simply click on this <http://derm.miamidade.gov/survey>. Thank you in advance for completing our customer survey.