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INTEROFFICE MEMORANDUM

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**TO:** FILE  
**FROM:** VICTORIA FRIGO  
**SUBJECT:** INQ 13-37  
**DATE:** FEBRUARY 15, 2013

Councilman Martin Packer, District #2, in the Village of Bal Harbour, called to confirm that he does not have a conflict that would prohibit him from participating in and voting on a matter coming before the Village Council on Tuesday, February 19, 2013.

Councilman Packer lives in a condominium adjacent to a property that will be affected by the vote. Because Councilman Packer has none of the prohibited relationships with the entity coming before the Council and he will not be affected in a manner distinct from the public generally, the County Code at Sec. 2-11.1 (d) allows him to vote.

This information was conveyed to Councilman Packer by Michael Murawski, Advocate for the Ethics Commission, and confirms an opinion given to the Councilman by the Village Attorney, Richard Weiss.

## Frigo, Victoria (COE)

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**From:** Frigo, Victoria (COE)  
**Sent:** Thursday, February 28, 2013 4:04 PM  
**To:** 'wydshs@aol.com'; 'mpacker@balharbour.gov'  
**Cc:** Murawski, Michael P. (COE)  
**Subject:** INQ 13-37 addendum  
**Attachments:** RQO 10-20 Kelly.pdf

Tracking:	Recipient	Delivery
	'wydshs@aol.com'	
	'mpacker@balharbour.gov'	
	Murawski, Michael P. (COE)	Delivered: 2/28/2013 4:04 PM

Councilman Packer,

To clarify the previous opinion given to you in INQ 13-37, you have no conflict to vote on a matter coming before the Bal Harbour Village Council on Tuesday, **MARCH** 19, 2013. This matter came before you on first reading on February 19.

The facts are otherwise as discussed previously. You will be voting on matters related to real property that abuts the condominium building in which you live, the Kenilworth. Approximately half of the over 100 condominium owners in the Kenilworth face the subject property, as do over a hundred other condominium owners in another condominium, the Plaza of Bal Harbour. Both condominium associations (but not the individual condominium owners) accepted money to mitigate clean-up costs and other expenses associated with the proposed construction on the property.

Because you have none of the prohibited relationships with the entity coming before the Council and you will not be affected in a manner distinct from the public generally, the County Code at Sec. 2-11.1 (d) allows you to vote.

The Ethics Commission has opined that an elected official who represents only 1% to 2% of the class that would be affected by the vote is not uniquely affected. (See RQO 10-20 Kelly, attached.) Additionally, you will not profit or be enhanced by the vote since the mitigation fees provided to your condominium association would be *de minimis* if they were to be apportioned to individual owners—which they were not.

Sincerely,

**VICTORIA FRIGO, SENIOR STAFF ATTORNEY**

Direct Phone: 305 350-0601  
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