
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, September 16, 2014 9:07 AM
To: Sanchez, Rodzandra (COE)
Subject: Javier Holtz, Council Member, Village of Indian Creek (Voting Conflict) INQ 14-217

INQ 14-217

From: Centorino, Joseph (COE)
Sent: Monday, September 15, 2014 5:25 PM
To: Diaz-Greco, Gilma M. (COE)
Subject: INQ - Javier Holtz, Council Member, Village of Indian Creek (Voting Conflict)

This writer received an inquiry from Attorney John Shubin on behalf of Council Member Javier Holtz of Indian Creek Village. Mr. Shubin related that Mr. Holtz was inquiring regarding whether he has a voting conflict in voting on an ordinance that would raise the permissible height of hedges in the Village of Indian Creek. The issue arose as a result of a dispute between Mr. Holtz and a neighbor of his, over the height of a hedge on Mr. Holtz's property. The dispute escalated to the point where the neighbor filed a police complaint with the Village Police Department claiming that Mr. Holtz's hedge exceeded the allowable height of 7' under Village ordinances. The Village Manager, after reviewing the heights of various hedges in the Village and finding that many of them also exceeded the permitted height (including hedges on the property of other Council members), has submitted to the Village Council a proposed Ordinance raising the height limit. Mr. Holtz inquires whether the fact that the issue arose out of his personal dispute with his neighbor would prohibit him from voting on the issue. He also inquires regarding whether his wife may attend and speak at the hearing on the ordinance, and whether his situation differs in any respect from other Council members who may be voting on the issue.

I advised that, although in most instances an elected official may vote on a matter that affects the entire community rather than a small segment that includes property owned by the official, the circumstances in this matter create the basis for a different conclusion. Where the issue was raised as a result of a personal dispute over Mr. Holtz's property, and where that dispute has resulted in a police complaint against Mr. Holtz, I concluded that Mr. Holtz would indeed have a voting conflict of interest under Section 2-11.1(d) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance. Mr. Holtz would stand to profit or be personally enhanced in connection with a personal, ongoing dispute and the outcome of the police complaint filed in connection with that dispute. Therefore, he should not vote or otherwise participate in the issue. However, his wife, who is not a public official with the Village, does not come under the jurisdiction of the Code of Ethics and may attend and speak at the meeting.

I further advised that, although some of the other Village Council Members may have hedges on their property that would be affected by the Ordinance, I did not find that they have the same voting conflict since the Ordinance would apply equally to all residential properties within the Village and they had no personal dispute or other personal stake which prompted or would be affected by the Ordinance.

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