



Via Interoffice Correspondence  
and email at [wl2564@miamidade.gov](mailto:wl2564@miamidade.gov)

**ETHICS COMMISSIONERS**

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October 25, 2012

Linda Weber, Real Estate Officer  
Real Estate Development Division  
Miami-Dade County Internal Services Department (ISD)  
111 N.W. 1<sup>st</sup> Street, Suite 2460  
Miami, FL 33128-1907

**Re: RQO 12-11**

Prohibition on outside employment as a real estate agent  
*See* Miami-Dade County Ethics Code at Secs. 2-11.1 (g) and (j)

Dear Ms. Weber:

IN A PUBLIC MEETING on October 23, 2012, the Miami-Dade Ethics Commission opined that County real estate officers should not be permitted to engage in outside employment as private real estate agents because this type of outside employment is likely to impair one's independence of judgment in the performance of one's public duties and may, in some cases, result in an exploitation of one's official position.<sup>1</sup>

AS BACKGROUND, you asked for permission to engage in outside employment as a residential real estate agent. If permission were granted, you would be required to activate your real estate license.

You are a County real estate officer subject to a longstanding County policy that requires County real estate officers to hold valid real estate licenses, but to place their licenses on inactive status. The intent of this policy is to prevent County real estate officers from engaging in outside employment as private real estate agents.<sup>2</sup>

<sup>1</sup> See Miami-Dade County Code at Sec. 2-11.1 (j), *prohibition on conflicting employment*, and Sec. 2-11.1 (g), *prohibition on exploitation of official position*. Additionally, the County's Administrative Order AO 7-1 prohibits County employees from accepting outside employment where a real or apparent conflict of interest with one's official or public duties is possible.

<sup>2</sup> Certain government workers at the federal level are also prohibited from activating real estate licenses to engage in outside employment. *See*, for example, BLM employees at 5 CFR 3501.105(2)(2011), GSA employees at 5 CFR 6701.104(a)(2011), and HUD employees at 5 CFR 7501.105(a)(1)(2011).

THE COUNTY ETHICS CODE at Sec. 2-11.1 (j) prohibits County employees from accepting outside employment that would impair their independence of judgment in the performance of their public duties.<sup>3</sup> Furthermore, Sec. 2-11.1 (g) prohibits employees for using their official positions to secure special privileges for themselves or others.

Along with the implicit limitations imposed by these sections of the County Ethics Code, the Ethics Commission also addressed the issue of fairness in denying County real estate officers permission to engage in outside employment as private real estate agents. Specifically, the Commissioners reviewed permissions granted to other County professionals and to a County supervisor in the Internal Services Department (ISD).

The Commissioners concluded that the level of autonomy granted to real estate officers in conducting County business is far higher than that of other County professionals. For example, County real estate officers independently choose the sellers, purchasers, and landlords who will contract with County and negotiate all the terms of the agreements they bring to the County. By contrast, County architects and engineers work solely with County contractors chosen by selection committees.

Much more than most professionals, residential real estate agents engage in an extensive amount of face-to-face, telephone, and computer interactions with private clients. Under these circumstances, the County could not adequately monitor the amount of time real estate officers spend on private phone calls and private visits to private clients during the course of a County work day.

Regarding an ISD supervisor's outside employment, the Ethics Commissioners distinguished his employment as a real estate consultant from employment as a real estate agent.<sup>4</sup> Consultant work does not require an individual to activate his real estate license, whereas real estate agents must activate their licenses to conduct sales.

IN CONCLUSION, the Ethics Commission opined that the longstanding policy of the Real Estate Development Division requiring real estate officers to place their real estate licenses on inactive status should be maintained.

The Ethics Commission held that the policy is fair to the residents of Miami-Dade County who deserve a full day's work for a full day's pay. It is

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<sup>3</sup> A similar prohibition under state law is found at Fla. Stat. 112.313(7)(a) (2012).

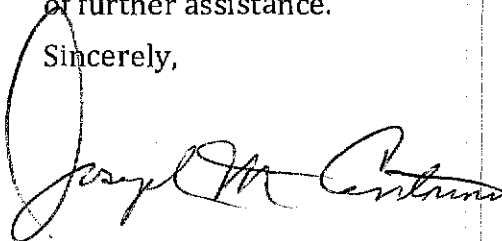
<sup>4</sup> See RQO 05-15, to Leland S. Salomon, former Chief of the Real Estate Development Dept. Additionally, other local government department heads engaged in outside employment agreed to forgo using their licenses and hire licensed contractors and/or qualifiers instead to run their private construction companies. See RQO 08-29, for Orlando J. Diez, City of Miami Construction Manager II and RQO 08-45 for Emanuel Mayer, Miami Beach Construction Advisor to the City Manager.

fair to County supervisors who must protect County resources from exploitation. The policy is fair and reasonable to County employees who accept numerous restraints on their private activities in order to preserve the public's trust.<sup>5</sup>

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me or Victoria Frigo, Staff Attorney, if we can be of further assistance.

Sincerely,



JOSEPH M. CENTORINO  
Executive Director

copies:

Lester Sola, Director, ISD, at [solal@miamidade.gov](mailto:solal@miamidade.gov)

Leland S. Salomon, Acting Assistant Director, Real Estate Development Division, ISD, at [slalom@miamidade.gov](mailto:slalom@miamidade.gov)

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<sup>5</sup> Among these are the prohibition that County employees shall not hold public office while employed by the County and the requirement that directors and purchasing agents annually disclose personal financial information.