
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, July 07, 2015 1:53 PM
To: Sanchez, Rodzandra (COE)
Subject: Miriam Ramos, Deputy City Attorney, City of Coral Gables (2-year rule, lobbying) INQ 15-140

INQ 15-140 Ramos

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

From: Centorino, Joseph (COE)
Sent: Tuesday, July 07, 2015 1:43 PM
To: 'Ramos, Miriam'
Cc: Leen, Craig; Diaz-Greco, Gilma M. (COE); Perez, Martha D. (COE)
Subject: INQ 15-140 Miriam Ramos, Deputy City Attorney, City of Coral Gables (2-year rule, lobbying)

Ms. Ramos:

You have inquired regarding the application of the two-year rule under Section 2-11.1(q) and the lobbyist registration requirements under Section 2-11.1(s) of the County Ethics Code to a contract attorney hired by the City of Coral Gables who is a former Assistant County Attorney within two years of leaving County employment. This individual would be involved in effectuating an agreement between the City, MDCPS, Baptist Hospital, University of Miami and other entities regarding Westlab Elementary School. Although the County is not a party to the agreement, the County would have to approve the traffic plan implemented by the agreement. The contract attorney would be meeting with County personnel and County Attorneys in connection with the agreement, although that individual may be working only on technical legal matters and may not be engaged in activity that would ordinarily be considered lobbying. Also, you have informed that the City has engaged a lobbyist who will be performing most, if not all, of the lobbying that occurs.

The two-year rule in Section 2-11.1(q) restricts former County employees from lobbying the County for a period of two years. There is no issue raised under this section unless an individual actually engages in lobbying activity, which is uncertain under the known circumstances. However, given that this agency has applied a broader definition of lobbying activity to such former employees (See INQ 12-09) and the fact that some County approval is required in the process, I will assume for the purposes of this opinion that the individual is likely at some point to engage in lobbying. In that event, Section 2-11.1(q)(2) exempts from the two-year rule employees "who become employed by governmental entities..." I believe that this exception would apply to the individual in question who, under the Coral Gables City Code, is invested with all the powers of an Assistant City Attorney. Additionally, we have held that a contractual relationship with a governmental entity is the equivalent of employment (See INQ 05-42). Therefore, should the individual in question engage in lobbying, then that person would be exempt from the two-year rule under Section 2-11.1(q)(2).

Regarding whether the contract attorney would be required to register as a lobbyist pursuant to Section 2-11.1(s), it is my opinion that such registration would not be necessary. Section 2-11.1(s)(3)(a) exempts from the registration requirement, "Any public officer, employee or appointee who only appears in his or her official capacity..." Since the individual in question qualifies under the aforesaid exception, registration would not be required.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

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

From: Ramos, Miriam [mailto:mramos@coralgables.com]
Sent: Tuesday, July 07, 2015 12:44 PM
To: Centorino, Joseph (COE)
Cc: Leen, Craig
Subject: RE: INQ Request - 2-yr rule exception

Dear Joe,

As we discussed a few moments ago, the County would not be a party to this agreement. The County's only role in the process is a regulatory one (i.e. approving the traffic plan). The City needs to get the County's approval as a regulator and is, in some ways, acting as the County's agent in the zoning process. For this reason the County and City's interests are aligned. Also, the issues are likely to be technical. For these reasons, I do not believe that the individual will be engaging in traditional lobbying activity.

In any event, I propose that this individual should be covered under the exception in Sec. 2-11.1(q)(2) that exempts employees "who become employed by government entities..." As previously noted, the City of Coral Gables code vests outside special counsel with all the powers of an Assistant City Attorney and they should therefore be treated as employees of the City, for purposes of this analysis.

Assuming you agree that the exception applies, please advise whether you think he would need to register as a lobbyist, given the description of his anticipated activities.

Thank you for your time.

Best,

Miriam S. Ramos, Esq.
Deputy City Attorney
City of Coral Gables
405 Biltmore Way, 3rd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial

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

From: Centorino, Joseph (COE) [mailto:CENTORI@miamidade.gov]

Sent: Thursday, July 02, 2015 5:14 PM

To: Ramos, Miriam

Subject: RE: INQ Request - 2-yr rule exception

Miriam,

It is unclear from your email whether the County will be a party to the agreement or what the County's interest in the agreement will be. Also, will this person be involved in activity that would be considered lobbying, where there is a lobbyist who is also involved, or will the attorney just deal with technical legal issues? On the question of whether the employee exception would apply to a contract employee, we will have to do some research to figure out if we have any precedent on that. I do know that we consider contract municipal attorneys to be covered by the Ethics Code the same as employed municipal attorneys, but that is a separate issue. Will get back to you next week.

Joe

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

From: Ramos, Miriam [mailto:mramos@coralgables.com]

Sent: Thursday, July 02, 2015 4:19 PM

To: Centorino, Joseph (COE)

Cc: Leen, Craig

Subject: INQ Request - 2-yr rule exception

Good afternoon Joe,

I hope this email finds you well. I am writing to request an opinion on the following issues:

1. The City is looking to hire a former Assistant County Attorney as outside counsel to assist in effectuating an agreement between the City, MDCPS, Baptist Hospital, the University of Miami and other entities regarding Westlab Elementary school. The individual we are looking to hire is within the 2-year rule. He may need to meet with County officials/staff throughout the process. However, a lobbyist has been hired by the City on the issue. The question is whether the exception for individuals who move on to work for other government entities (or educational institutions) would apply in this case. I note that under the City Code, outside counsel is delegated the same authority as an Assistant City Attorney and in that respect could be considered an employee. I propose that the exception should apply. Otherwise, for example, a County employee who subsequently becomes City Attorney for a municipality who contracts that function out could not lobby the County, which seems to illogical.

2. If the exception applies, would the individual have to register as a lobbyist given that he is essentially performing the function of an Assistant City Attorney and given the fact that there is a lobbyist who is currently registered on this issue?

Thank you,

Miriam

Sent from my iPhone

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