
INQ 16-147

From: Perez, Martha D. (COE)
Sent: Thursday, June 09, 2016 9:54 AM
To: 'Ruiz, Joseph A.'
Cc: Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE); Turay, Radia (COE)
Subject: Joseph Ruiz, Assistant City Attorney, Miami; Financial Reporting Requirements; INQ 16-147

Dear Joe,

You inquired whether members of the Wynwood Design Review Committee (WDRC) are subject to financial disclosure filing requirements.

Background

The WDRC is a standing committee of the Wynwood Business Improvement District (BID). The Wynwood BID Board was established by the City Commission in 2013, to improve and strengthen the Wynwood Arts District. Members of the BID Board file financial disclosure reports. (Members of boards in the City of Miami, similar to the Wynwood BID Board, are required to file financial disclosure forms. *See example, § 2-1055- Overtown Community Oversight Board*).

The BID Board makes recommendations *to the City Commission*. *See* § 2-1321(a), City of Miami Code. The BID Board may also establish committees for the purpose of carrying out its functions. § 2-1317(e), City of Miami Code. Consequently, the Wynwood BID Board established the WDRC to carry out its objectives, ie., the promotion, management, marketing and other similar services for infrastructure improvements and projects in the Wynwood Arts District.

The WDRC is a standing committee *created by the Wynwood BID*, for the purpose of recommending to the Planning & Zoning director and/or the Urban Development Review Board (UDRB), pursuant to the zoning ordinance, “whether the design of developments and/or improvements to properties within the boundaries of the (area) are compatible with the cultural and architectural character of the Wynwood Arts District...” § 2-1328.1(a), City of Miami Code. The WDRC is comprised by seven members *appointed by the BID Board*. The functions of the WDRC include: reviewing and recommending the approval or disapproval of applications *to the Planning & Zoning director*; requiring submission of all necessary information for evaluation of proposed structures of improvements; recommending amendments to city guides and standards applicable to the Wynwood Arts District; reviewing and recommending *to the UDRB* projects for approval or disapproval; and, recommending amendments to city standards and legislation for security screens and shutters in the Wynwood Arts District. *See* § 2-1328.1 (c) (1-6), City of Miami Code. The WDRC members are appointed by the BID Board. The WDRC is not currently funded by the City Commission.

Analysis

The County Ethics Code applies to the County and its municipalities. *See* §2-11.1(a). Section §2-11.1(i) of the County Ethics Code requires municipal board members to file financial disclosure forms. The term “board” includes “every agency, authority, advisory board, regulatory board, quasi-judicial board, semiautonomous instrumentality, committee, task force or any other citizens’ group **created and funded in whole or in part by the city commission...** Except as otherwise provided herein or in the City Charter, **city boards and citizens’ advisory groups shall only be created by action of the city commission and only the city commission may appoint the members of such boards or groups**”. *See* § 2-882, City of Miami Code; § 2-11.36(a), County Code. Therefore, in instances where a board member, as defined herein, does not

have a State filing requirement, Section 2-11.1(i) of the County Ethics Code requires municipal board and committee members **whose responsibility is to give advice or recommend legislation to the city commission**, to file any one of the following financial disclosure statements: Copy of the member's current federal income tax return; a Statement of Financial Interests (State Form 1); or, a County Source of Income Statement. See RQO 13-01; INQ 10-93.

A review of other "committees" in the City of Miami reveals that the City has in fact made a distinction between "boards" which advise the Mayor and City Commission and those who undertake other "advisory" roles not contemplated by Section 2-11.1(i). For example, the enabling ordinances creating such committees specify that the committees are established by the mayor and city commissioners; that appointment of their members is done by the mayor and city commissioners and that *their role is to advise the mayor and city commission*. (See §2-1329-Stars of Calle Ocho Advisory Committee; § 18-229- Self-Insurance and Insurance Committee).

The WDRC does not make recommendations to the City Commission, rather, any recommendations are made to the Planning & Zoning Director and/or the UDRB; the WDRC was established/ created by the Wynwood BID Board, not the City Commission; the WDRC members are appointed and may be removed by the Wynwood BID, not the City Commission.

Consequently, the WDRC is not a "board" as defined by Section 2-11.1(i) of the County Ethics Code and its members are not required to file financial disclosure reports .

Should you have any questions concerning State filing requirements for WDRC members, please contact the Florida Commission on Ethics.

This opinion is based on the facts as you have presented them to the Ethics Commission. Please contact us if these facts change. Inquiries regarding possible conflicts with departmental directives should be addressed with your Department Supervisor. Inquiries regarding possible conflicts under State law should be directed to the Florida Commission on Ethics.

Sincerely,

Martha D. Perez
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From: Ruiz, Joseph A. [<mailto:jaruiz@miamigov.com>]
Sent: Monday, June 06, 2016 1:30 PM
To: Perez, Martha D. (COE)
Subject: RE: Financial Reporting Requirements

My apologies.



Joseph A. Ruiz,
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From: Perez, Martha D. (COE) [<mailto:perezmd@miamidade.gov>]
Sent: Monday, June 6, 2016 1:22 PM
To: Ruiz, Joseph A.
Subject: RE: Financial Reporting Requirements

Joe, please resend....it's not attached! Thank you.

From: Ruiz, Joseph A. [<mailto:jaruiz@miamigov.com>]
Sent: Monday, June 06, 2016 1:19 PM
To: Perez, Martha D. (COE)
Subject: RE: Financial Reporting Requirements

Thank you for calling me back right away. Please find attached the portion of the City of Miami Code pertaining to the Wynwood Design Review Committee.

Please let me know whether you have any follow-up questions.

Thanks,

Joe



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From: Ruiz, Joseph A.
Sent: Monday, June 6, 2016 12:51 PM

To: 'perezmd@miamidade.gov'
Subject: Financial Reporting Requirements

Good Afternoon Ms. Perez:

I just called and left you a message. When you have a moment, would you please give me a call. I have a question regarding financial reporting requirements.

I may be reached at the number below of on my cellphone at 305-972-1653.

Best Regards,

Joe



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Sec. 2-1328.1. - Wynwood design review committee.

- (a) *Establishment.* There is hereby established a standing committee of the BID, to be known as the Wynwood Design Review Committee ("WDRC"), for the purpose of recommending to the director of planning and zoning and the Urban Development Review Board ("UDRB"), pursuant to the Wynwood NRD-1 and Miami 21, the zoning ordinance of the city, as amended or superseded. whether the design of developments and/or improvements to properties within the boundaries of the Wynwood NRD-1 are compatible with the cultural and architectural character of the Wynwood Arts District and guidelines that may be adopted from time to time.
- (b) *Membership.*
- (1) *Composition; appointment.* The WDRC shall consist of seven members and one alternate, to be appointed by the BID board, or any successor body designated by the city commission.
 - (2) *Qualifications.* It is intended that members of the WDRC shall be persons of experience, mature judgment and background; having knowledge of the Wynwood Arts District; and having the ability, special professional training and interest to act in the public interest in order to make informed and equitable decisions concerning art, architecture, urban, physical and site design for developments within the Wynwood NRD-1 boundaries. To that end, qualifications of members shall be as follows:
 - a. BID members. At least three members shall be individuals who are members of the BID. Each member shall have been living or working within the Wynwood NRD-1 boundaries for at least two years.
 - b. Professional members. Two members shall be professionals, licensed by the State of Florida (or professional equivalent) as an architect, landscape architect, urban designer, planner, engineer, general contractor or attorney. Each member shall have been living or working in the city for at least two years.
 - c. Tenant/cultural member. Two members shall be a tenant with an active lease within the Wynwood NRD-1 boundaries, artist, or cultural institution representative.
 - d. Alternate. The alternate member shall satisfy the qualifications set forth either in subsection (2)a. or b. above.
 - e. During the qualification process, members of the BID shall be encouraged to submit names of persons and their qualifications to the BID board through the BID's executive director.
 - (3) *Terms of office.* Members of the WDRC shall be appointed to the following terms. Two of the BID members, one of the professional members, and one of the tenant/cultural members shall be appointed for an initial term of one year. All other appointments to the WDRC thereafter shall be for a term of one year. Notwithstanding the above, individual WDRC members may serve until his/her successor is appointed.
 - (4) *Vacancies.* Vacancies in the membership of the WDRC shall be filled by the BID board, and shall be only for the unexpired term of the member affected.
 - (5) *Removal.* Members of the WDRC may be removed with or without cause by vote of not less than three members of the BID board; however, any member or alternate member of the WDRC who fails to comply with the attendance requirements contained in section 2-886 of this Code shall be automatically removed in the manner prescribed under section 2-889 of this Code. Following said removal, the BID board shall fill the vacancy pursuant to subsection (4) above.
- (c) *Functions, powers and duties generally.* In addition to such other powers, duties and authority as may be set forth elsewhere in this City Code and in the zoning ordinance, the WDRC is hereby authorized to:
- (1) Review and recommend to the director of planning and zoning for approval, approval with conditions or disapproval of all applications within the Wynwood NRD-1 boundaries for which the WDRC is specifically designated for such role. Said review shall be pursuant to city

guidelines and standards or such design guides contained in the requirements of the applicable zoning district text, Wynwood NRD-1, and any design guides adopted by the BID from time to time.

- (2) Require submission to the WDRC of all information as may be reasonably necessary for the WDRC to evaluate completely the proposed structure of improvement.
 - (3) To recommend, from time to time, to the director of planning and zoning amendments to the city guides and standards applicable to the Wynwood Arts District.
 - (4) Adopt and amend rules of procedure.
 - (5) Where the UDRB has jurisdiction to review projects, review and recommend to the Urban Design Review Board ("UDRB") such projects for approval, approval with conditions, or disapproval, with reasons for such recommendation stated in writing.
 - (6) In conformity with chapter 10 of the City Code, and other applicable regulations, recommend legislation for security screens and shutters in the Wynwood Arts District.
- (d) *Proceedings.* The WDRC shall meet at least once each month, except for August, and all meetings shall be open to the public. The WDRC shall establish rules of procedure necessary to its governing and the conduct of its affairs, in keeping with the applicable provisions of the City Charter and City Code. Such rules of procedure shall be available in written form to persons appearing before the WDRC and to the public upon request. The WDRC shall not defer or continue an item before taking affirmative action to recommend approval, approval with conditions or disapproval, unless requested by an applicant or the director of planning and zoning.
- (e) *Voting; quorum.* All decisions and recommendations of the WDRC shall require a concurring vote of a majority of the members present, except if the WDRC's action results in a tie vote, and there are no further motions put forth, the recommendation to the director of planning and zoning or UDRB, as applicable, shall reflect a tie vote. Three members shall constitute a quorum.

(Ord. No. 13554, § 2, 9-24-15)

Editor's note— Ord. No. 13554, § 2, adopted September 24, 2015, enacted provisions intended for use as section 2-1329. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as section 2-1328.1.