

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, August 29, 2016 2:00 PM
To: Sanchez, Rodzandra (COE)
Subject: Maria Cruz, Director of Development- FECI (Two Year Rule) INQ 16-209

INQ 16-209 Lievano Cruz

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

From: Perez, Martha D. (COE)
Sent: Monday, August 29, 2016 1:49 PM
To: 'Maria Lievano Cruz' <mlievanocruz@gmail.com>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Maria Cruz, Director of Development- FECI, Two Year Rule, INQ 16-209

Dear Maria,

You inquire whether you are permitted under the Two- Year Rule to communicate, correspond and interact with County staff regarding the County's Ludlam Trail project.

Background

You were employed in the County as Chief of Staff to Commissioner Jose "Pepe" Diaz. While fulfilling your responsibilities in that position, you interacted with County personnel and staff extensively. You left County employment in 2015. You are currently the Director of Corporate Development for Florida East Coast Industries (FECI), with oversight responsibility for the Ludlam Trail Corridor (LTC). FECI is the current property owner of the land comprised of the LTC and is presently or will be, in the foreseeable future, engaged in the sale/purchase negotiation of the LTC and or its development initiatives.

In 2014, FECI applied for an amendment of the Miami-Dade County Comprehensive Development Master Plan (CDMP), requesting that the LTC District be created. Faced with community opposition at the public hearing, FECI withdrew its application. Consequently, the BCC directed the County to obtain input through the charrette process and file the CDMP amendment application (Application) reflecting those results. Two charrettes were conducted and subsequently, in April 2015, Application #9 was filed by the County pursuant to Resolution R-350-15, applying for an amendment to the CDMP for the LTC. In November 2015, through in accordance with Resolution R-1052-15, the BCC directed the Mayor to follow transmittal instructions for such Application.

At the present time, the Application is pending final action by the BCC. The hearing, originally scheduled for March 2, 2016, was postponed at the request of FECI, with no final hearing date set. Issues regarding the LTC remain unresolved, primarily as it relates to the conveyance of the property. It is also worth noting that, in the event the Application is accepted by BCC, there remains a "challenge period" in which the affected parties (including FECI) may challenge the decision. At this time, the Application is not in effect, hence, the LTC "project" is pending.

Analysis

Section 2-11.1(q) of the County Ethics Code (the "Two-Year Rule"), prohibits a County employee, who separated from County employment less than two years, from lobbying County officials, personnel or employees. The ordinance is designed to limit a former employee's ability to use his or her former County service and contacts for personal benefit or business interests through lobbying, to the detriment of others who do not have County "connections". Lobbying efforts include arranging, representing or participating in any meetings, negotiations, presentations, interactions or other

discussions with County officials, personnel or employees, in an attempt to influence or persuade the official or employee to take any type of official action. See Section 2-11.1(s), County Ethics Code

The Ethics Commission has issued several opinions listing activities which are not considered lobbying and thus, permissible under the Two-Year Rule. Among these, the prohibition does not apply in instances where the former County employee is meeting with County staff or providing management or oversight of a County project related to an awarded contract (emphasis added), without any intention to influence the award, amend or modify a contract. See RQO 09-36 (soon-to-retain County employee may, following retirement, provide oversight of ongoing County project with new employer which is sub-consultant of the project, provided no lobbying is involved.)

While it is evident that your input concerning the LTC is invaluable and that you would be able to assist the County in the foreseeable development of its "vision plan", the fact remains that the County's Application is not in effect and the decision-making process is still pending. This is compounded by other issues which remain unresolved given your employer's vested interest in the LTC as it continues to pursue avenues with the County in order to achieve the maximum benefit for its property. To analogize the pending LTC project to an "awarded" contract is premature and, any interaction by FECL officials to communicate with the County in an effort to benefit from County action or recommendation is considered lobbying.

Consequently, you may communicate with County staff by sharing your expertise regarding the LTC, provided such information is solicited by the County, but you may not initiate or engage in any discussions in an attempt to influence or persuade the staff or County officials to take any official action with respect to the Application or future negotiations with the County involving LTC. This may prove difficult given your duties and responsibilities at FECL, therefore, it is recommended that you select another FECL representative to communicate with County staff, while you are still bound by the Two-Year Rule, or wait until the two years have expired.

The Ethics Commission emphasizes that the County Ethics Code represents a minimal standard of conduct for those who have served government and remain subject to the Two-Year Rule. Former employees should carefully consider the totality of the circumstances, including any valid concerns over an appearance of impropriety, before taking action that could possibly erode the public's trust.

This opinion is predicated on the facts as presented. If any of these facts change, please contact us.

Best regards,

Martha D. Perez
Staff Attorney
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-----Original Message-----

From: Maria Lievano Cruz [mailto:mlievanocruz@gmail.com]
Sent: Wednesday, August 24, 2016 11:31 AM

To: Perez, Martha D. (COE) <perezmd@miamidade.gov>; Ethics (COE) <ethics@miamidade.gov>
Subject: 2-year rule

Dear, Martha:

As we discussed, I am entirely aware that former employees must adhere to a two-year waiting period before registering to lobby the government. Since leaving county employment less than a year ago, I have become a Director of Corporate Development for Florida East Coast Industries (FECI). FECI is a major landowner in Miami-Dade County and partners with the local government on various transportation projects. One such parcel of land owned by FECI is commonly referred to as the "Ludlam Trail Corridor."

In April of 2015, the Board of County Commissioners approved Resolution R-350-15 directing the Mayor to file as a "County application" an amendment to the Comprehensive Development Master Plan (CDMP). "The Ludlam Trail Corridor Application" was originally filed as a private CDMP application by FECI.

The County's goal and vision for the Ludlam Trail Corridor is to convert this 5.8 mile corridor into a continuous publicly-accessible, non-motorized trail to enhance regional mobility with limited development at designated locations. In fulfilling this vision and goal, Miami-Dade County, primarily through its Parks Department, is committed to pursuing grant dollars and other sources of funding that would allow Miami-Dade County to eventually purchase the corridor from FECI. The County Commissioners have also approved several resolutions requesting funds from the State of Florida for the acquisition of this corridor.

In my role as a Director of Corporate Development at FECI, I have oversight responsibility for the Ludlam Trail Corridor and am uniquely positioned to assist the County with their efforts. In reading through previous opinions relating to the two-year lobbying rule, I found that "the two year rule permits former employees to provide management and oversight of county projects" (RQO 09-36). Since the County filed the CDMP application for the Corridor, and is pursuing State assistance for the transformation of this transit corridor, the Ludlam Trail Corridor, though owned by the FECI, has essentially become a County project.

In this instance, is it permissible for me to communicate, correspond and interact with the county staff in furtherance of the County's objectives relative to the Ludlam Trail Project?

I look forward to hearing from you soon.

-Maria Lievano Cruz