

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, September 21, 2016 1:27 PM
To: Sanchez, Rodzandra (COE)
Subject: Lee Hefty, Director, Division of Environmental Resources Management (DERM), Miami-Dade Department of Regulatory and Economic Resources (Sunshine Law) F INQ 16-216

INQ 16-216 Hefty

From: Centorino, Joseph (COE)
Sent: Wednesday, September 21, 2016 1:25 PM
To: Hefty, Lee (RER) <Lee.Hefty@miamidade.gov>
Cc: Schwaderer-Raurell, Abbie (CAO) <Abbie.Schwaderer-Raurell@miamidade.gov>; Sanchez, Gerald (CAO) <Gerald.Sanchez@miamidade.gov>; Kirtley, Eddie (CAO) <Eddie.Kirtley@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 16-216 Lee Hefty, Director, Division of Environmental Resources Management (DERM), Miami-Dade Department of Regulatory and Economic Resources (Sunshine Law)

Mr. Hefty,

You have inquired in your capacity as Director of DERM whether the Environmentally Endangered Land Project Review Committee (PRC), created pursuant to Section 25-50.13 of the Miami-Dade Code, is covered by the provisions of the Florida Sunshine Law (Section 286.011, Florida Statutes). The purpose of the PRC is to advise the County Mayor regarding the appropriateness of land acquisition proposals under the County's Environmentally Endangered Land (EEL) program. Its members are to be appointed by the Mayor and includes representatives of at least three designated County departments. The Mayor or his/her designee is to sit as chair. It is expected that the Mayor will rely on the recommendations of the PRC in making recommendations to the Land Acquisition Selection Committee, an acknowledged Sunshine board, which, in turn, recommends appropriate parcels for County acquisition to the Board of County Commissioner. There is no prescribed mode of procedural operation for the PRC under County ordinance.

You have indicated that it has been about five years since there was any activity by the PRC, which is expected to be appointed periodically on an *ad hoc* basis by the Mayor to make recommendations to the Mayor when there is a need for him to consider the acquisition of certain designated parcels under the EEL program. In fact, it has been the practice in the past for the PRC to act on a very informal basis, with individuals designated as members of the PRC to provide their input to the Mayor without even convening a meeting. Your inquiry is prompted by the fact that there are now pending proposed parcels for acquisition by the County under the EEL program, and it is likely that the Mayor will be designating members of the PRC to advise him in the process.

There is no question that a governmental advisory board, formed by a governmental entity to advise governmental decision makers during any decision-making process of that governmental entity, is subject to the Sunshine Law, even where the board is purely advisory and has no formal decision-making authority. At the same time an individual governmental decision-maker, such as the Mayor or a member of the Board of County Commissioners, is free to communicate with one of more staff members regarding matters that come up within the purview of the staff members designated role. Where, however, staff members are formed as an advisory committee, and meet as a group to discuss and vote on recommended actions that will be conveyed to a governmental decision-maker, then such a group is generally held to be subject to the Florida Sunshine Law. See *News-Press Publishing Co. v. Carlson*, 410 So. 2d 546 (Fla. 2d CDA 1982).

Due to the fact that the PRC is specifically denoted as a "Committee" under Section 25-50.13, charged with advising the Mayor on policy matters within the Mayor's purview; that it is to be chaired by the Mayor; and that it is required to include among its members certain designated staff appointees, it appears to be intended to act more as a public board subject to the Sunshine Law than as a group of staff individuals providing their views separately to the Mayor. Accordingly, it is my opinion that the PRC should operate in compliance with the Florida Sunshine Law.

Sincerely,

Joseph M. Centorino

Executive Director and General Counsel
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From: Hefty, Lee (RER)
Sent: Wednesday, September 21, 2016 10:18 AM
To: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Cc: Schwaderer-Raurell, Abbie (CAO) <Abbie.Schwaderer-Raurell@miamidade.gov>
Subject: Opinion

Mr. Centorino,

Thank you for taking my call this morning. As follow-up to our call, I am providing the Code references we discussed. I am respectfully seeking your opinion regarding the Environmentally Endangered Lands Project Review Committee referenced in Section 24-50.13(3), and further referenced in Section 24-50.11(2) and Section 24-50.12(1) of the Code of Miami-Dade County. Specifically, please advise if this group is considered a sunshine board.

Thank you,

Lee

Lee N. Hefty
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As part of improving efficiency in our delivery of services to the businesses and residents of Miami-Dade County, the Department of Environmental Resources Management (DERM), and the County's Building,

Consumer Services, Economic and Business Development, and Planning and Zoning functions have been merged to form the **Miami-Dade County Department of Regulatory and Economic Resources (RER)**. Please look for DERM under our new name.