

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, March 31, 2017 9:08 AM
To: Sanchez, Rodzandra (COE)
Subject: Ceasar Mestre, Town Council Member, Town of Miami Lakes (Voting Conflict) INQ 17-103
Attachments: Mestre - Ethics letter.pdf

INQ 17-103 Mestre

From: Ethics (COE)
Sent: Thursday, March 30, 2017 6:10 PM
To: 'Lorenzo Cobiella' <lcobiella@gastesi.com>; 'Raul Gastesi' <rgastesi@gastesi.com>
Cc: 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 17-103 Ceasar Mestre, Town Council Member, Town of Miami Lakes (Voting Conflict)

Mr. Cobiella,

You inquired on behalf of Town of Miami Lakes Councilmember Ceasar Mestre regarding whether he would have a voting conflict in voting on an upcoming vote before the Town Council on a conditional use permit for the renovation and expansion of the Elevate Church in Miami Lakes. I have spoken with Councilman Mestre, who has confirmed that he is a member of the church and its host committee. He indicated that he does not sit on the board of the church or hold any other official position with the church. He did, however, state that he has pledged \$7,000 to the church's building fund. Those funds would be applied toward the project which is the subject of the special permit before the Town Council.

Voting conflicts are governed by Section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. There could be an automatic conflict under that provision if Councilman Mestre had one of several enumerated relationships under that section, such as being a board member or employee of the church. Since he does not have one of those relationships, the issue of whether he has a conflict would be dependent on whether he would or might, directly or indirectly, profit or be enhanced by the vote. It is clear that he would not receive the type of potential financial benefit from the vote that would be considered a "profit." However, the word "enhance" does not necessarily require that an individual receive a financial benefit from an action. The question raised by these facts is whether, by virtue of his church membership, and the fact that he will have materially contributed \$7,000 to the building effort creates such a personal enhancement. It is at least arguable that it would do so, although the issue is not clear-cut.

The fact that the proceeding is a quasi-judicial hearing on a zoning matter, however, raises the further issue of whether he should consider abstaining from the vote, in consideration of Section 286.012, Florida Statutes. That statute permits a voting official to recuse himself or herself from voting in a quasi-judicial matter "to assure a fair proceeding free from potential bias or prejudice." This provision helps protect the public trust in situations that may not involve a legal conflict, but where the heightened standard for insuring a fair proceeding in a quasi-judicial hearing calls for the exercise of such discretion by a public official. In this case, it is apparent that Councilman Mestre may be fairly considered by the public to have already taken a stand on this issue, inasmuch as he has committed personal funds to the project in the event that it is approved, and that, as a church member, he would receive the benefit of the expanded and renovated church facility.. It is likely that, regardless of a good-faith attempt on his part to provide a fair hearing on the subject, a favorable vote by him on the permit would create an overwhelming perception on the part of anyone opposed to the project that his vote was pre-determined and not the result of a fair hearing. For this reason, in addition to the

possibility that he would be personally enhanced by the approval, I recommend that Councilman Mester recuse himself from voting on this issue. I also recommend that he follow the usual procedures required under the code for a recusal on a voting conflict: 1) that he declare publicly prior to the vote the reason for his recusal; 2) that he leave the Council chamber during the discussion and vote on the issue; 3) that he file State Form 8B with the Clerk within 15 days of the vote, reporting the reason for his recusal.

I have also advised Councilman Mestre, that while he may participate in discussions about the project within his church community, he should avoid discussing it in any public forum or in the media where it may appear that he is attempting to use his public position to influence the outcome of the vote.

Sincerely,

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
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From: Lorenzo Cobiella [<mailto:lcobiella@gastesi.com>]
Sent: Wednesday, March 22, 2017 6:07 PM
To: Ethics (COE) <ethics@miamidade.gov>
Cc: Raul Gastesi <rgastesi@gastesi.com>
Subject: Request for Ethics Opinion

Dear Mr. Centorino,

Attached please find a written request for an ethics opinion. Should you have any questions regarding this email or attachment, please contact us.

Very Truly Yours,

Lorenzo Cobiella, Esq.

Gastesi & Associates, P.A. ▪ 8105 NW 155 Street ▪ Miami Lakes, FL 33016
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GASTESI & ASSOCIATES P.A.

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March 22, 2017

Sent via U.S.P.S. First Class mail and e-mail (ethics@miamidade.gov)

Joseph Centorino, Esq.
Executive Director
Miami-Dade County Commission on Ethics and Public Trust
19 West Flagler, Suite 820
Miami, Florida 33130

RE: Town of Miami Lakes – Request for Advisory Ethics Opinion

Dear Mr. Centorino:

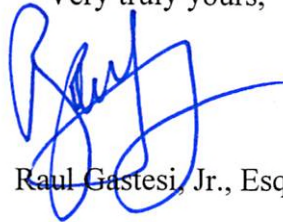
I write to you in my position as the attorney for the Town of Miami Lakes, Florida. In an effort to comply with state and local law, increase transparency, and remove even the appearance of impropriety, we seek an advisory ethics opinion related to the following set of facts.

Elevate Church, located at 6250 Miami Lakes Drive, Miami Lakes, Florida 33014, has filed a request for a Conditional Use Approval, pursuant to section 13-303 of the Land Development Code for the Town of Miami Lakes, to remodel and expand its facilities. Hon. Ceasar Mestre, a Councilman for the Town of Miami Lakes, is a contributing member of Elevate Church. Pursuant to the Land Development Code, applications for Conditional Uses are approved or denied by the Town Council via quasi-judicial proceedings. Councilman Mestre is concerned that his active participation as a contributing member of Elevate Church may conflict with his duties as Councilman during the quasi-judicial proceedings.

Accordingly, in light of the facts as stated herein, I respectfully request that the Miami-Dade Commission on Ethics and Public Trust, provide an opinion advising whether Councilman Ceasar Mestre has a conflict that will require him to recuse himself from voting on Elevate Church's Conditional Use request.

Should your office require additional information to respond to this request, please do not hesitate to contact me at 305-818-9993 or rgastesi@gastesi.com. I remain,

Very truly yours,



Raul Gastesi, Jr., Esq.

RG/lc

cc: Alex Rey, Manager, Town of Miami Lakes (via e-mail only)
Ceasar Mestre, Councilman (via e-mail only)