

## Sanchez, Rodzandra (COE)

---

**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Tuesday, April 11, 2017 2:15 PM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** George Kousoulas, Advisory Board Member, Town of Surfside (Voting Conflicts, Section 2-11.1(v)) INQ 17-110  
**Attachments:** votingconflictForm8B.pdf

[INQ 17-110 Kousoulas](#)

---

**From:** Centorino, Joseph (COE)  
**Sent:** Tuesday, April 11, 2017 2:00 PM  
**To:** 'George@BLOCK53.com' <George@BLOCK53.com>  
**Cc:** 'lmiller@townofsurfsidefl.gov' <lmiller@townofsurfsidefl.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 17-110 George Kousoulas, Advisory Board Member, Town of Surfside (Voting Conflicts, Section 2-11.1(v))

Mr. Kousoulas,

This is in response to your inquiry concerning a possible voting conflict that may arise in connection with your service as Chairman of the Sustainability Subcommittee to the Town of Surfside Planning and Zoning Board. You have explained that the Sustainability Subcommittee is a Town advisory board composed of citizens who review policies and make recommendations to the Planning and Zoning Board, which has quasi-judicial powers. Your subcommittee has no decision-making powers but makes recommendations concerning issues such as "green" requirements, ecological "friendliness" and beach maintenance in the Town. There are no applicants which come before your board for approvals. Your board does occasionally meet with individuals for the purpose of obtaining information relevant to its recommendations, and as any public board, you are required by State law to provide any member of the public to comment on an issue prior to that issue coming up for a vote by your board.

Your private employment is as construction manager for BLOCK 53, a firm that renders consulting services to mostly developer clients. You are a professional architect and the services you provide are related to the oversight of architectural issues on construction projects done by the developers. Your work has been done on projects outside of the Town of Surfside, but you have recently been approached by a developer active in the Town that has proposed that you become a consultant regarding the construction of a condominium tower in Surfside. If hired, you would be a consultant to the developer on architectural and construction issues raised by the project.

You foresee the possibility that you could face a conflict in connection with the ranking awarded to the project on "green points," by LEED, an environmental organization that certifies, through an auditing process, that buildings meet certain criteria to be considered a "green" building. You have indicated that your advisory board will soon be recommending guidelines for the requirements applied to the analysis of whether buildings in the Town meet certain "green" standards. While your board does not have the decision-making power to set these standards or enforce them, it does play an important part in the decision-making process leading up to the adoption of such standards by the Town Planning and Zoning Board. While the recommendation likely to be made by your board would apply generally to all construction in the Town and not individually to the building on which you are a consultant, there is no doubt that increasing such standards would have an impact on that building, to the extent of setting some standards that would require your client to spend more money and time to comply with them.

Voting conflicts for advisory board members are governed by Section 2-11.1(v) of the County Code of Ethics. That section prohibits members of county or municipal advisory boards from voting on a matter presented to it 1)that would directly affect the board member, and 2)where that member is also an officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary, stockholder, bondholder, debtor or creditor for a person or entity appearing before the board..

As I indicated to you when we spoke, the applicability of this provision to the situation described by you is not clear. You would indeed, under the arrangement described by you, be a consultant to a developer who would be affected by the setting of “green” standards that may be recommended by your board. However, the developer would not necessarily be appearing before your board, though it might do so if were concerned enough to get involved at the level of an advisory board. Given the timing of the project relative to the vote that would likely make the recommendation, it is at least arguable that you meet this prong of the voting conflict ordinance. However, the requirement that you be “directly” affected is also less than totally clear. The developer employing you as a consultant would be directly affected by the setting of the standard by the Town. That standard could become relevant to your role as an architectural advisor to the developer, should the setting of the standard require alterations in the plan for the development that would come within your purview. The directness of the effect on you at this point is somewhat speculative.

Since this is the only foreseeable client you have in the Town of Surfside and the vote on the “green” requirement is the only foreseeable vote you have that could have an impact on that client; and also because of the importance of the board’s role in the process leading to the setting of the standards in question; and your role as a paid consultant to that developer on issues that could include a heightened “green” standard; it is probable that your personal interest in serving your private client will be seen, at least by observers of the process, as affecting your judgment on the board’s position, to some extent. This would be so even if you maintained a completely objective view point on the process. The fact that you are the Chairman of the advisory board would only add to this perception, since you may be in a position to make procedural rulings that would also affect the outcome of the process.

For the foregoing reasons, it is my recommendation that you refrain from participating in the vote that will make the recommendation on the “green” standards and that you recuse yourself from the vote due to a possible voting conflict in connection with your proposed consultancy contract. In recusing yourself from a vote based on a conflict issues, it recommended that you follow the procedure of 1)disclosing the nature of the conflict and your recusal publicly during the meeting and prior to any discussion or vote on the matter; 2)absenting yourself from the room during the discussion and vote; and filing State Form 8B (attached) with the clerk of the board within 15 days of the vote, disclosing in writing the reason for your recusal.

If you have any questions or would like to discuss this matter further, please do not hesitate to call me.

Sincerely,  
Joe Centorino

*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  
Tel: (305) 579-2594  
Fax: (305) 579-0273  
[ethics.miamidade.gov](http://ethics.miamidade.gov)

