

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, June 19, 2017 10:53 AM
To: Sanchez, Rodzandra (COE)
Subject: Enid Weisman, Mayor, City of Aventura (Voting Conflict) INQ 17-155

INQ 17-155 Meyers

From: Centorino, Joseph (COE)
Sent: Wednesday, June 14, 2017 4:08 PM
To: 'Robert Meyers' <RMeyers@wsh-law.com>
Cc: David M. Wolpin <DWolpin@wsh-law.com>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Sanchez, Gerald (CAO) <Gerald.Sanchez@miamidade.gov>
Subject: INQ 17-155 Enid Weisman, Mayor, City of Aventura (Voting Conflict)

Robert,

You have inquired on behalf of City of Aventura Mayor Enid Weisman regarding whether she would have a voting conflict on an item coming before the Aventura City Commission regarding the expansion of the Aventura Hospital and Medical Center, a private, for-profit hospital. The question arises due to Mayor Weisman's position as an unpaid member of the hospital's Board of Trustees, as well as the hospital's Credentialing Committee, which deals with the credentials of medical staff. The Board of Trustees at the hospital, which operates under the umbrella of the Hospital Corporation of America (HCA), does not have formal decision-making managerial authority at the hospital, unlike most hospital boards of trustees. The Board at Aventura Hospital is more akin to an advisory board that is selected for community input. I spoke with Mayor Weisman, who indicated that the Board members are appointed under the hospital by-laws by the CEO following nomination by the Board itself. They serve for a three-year term. Mayor Weisman has been on the Board for approximately ten years, and was at one time the Chair of the Board. The Board meets monthly, either in person or by telephone, and reviews for its approval the hospital's monthly medical report, accreditation report and quality management report, although its action is advisory only. Mayor Weisman informed me that in the course of their meetings, the Board was briefed on the expansion plans of the hospital.

As an elected official within the County, Mayor Weisman is governed by Section 2-11.1(d) of the County Ethics Code in connection with possible voting conflicts. Under that section, an official who is an "officer, director, partner, of counsel, consultant, "employee, fiduciary or beneficiary," of an affected entity would automatically incur a voting conflict. Additionally, a voting conflict would be created where the official "would or might, directly or indirectly, profit or be enhanced by the action."

Although the position she holds is of an advisory nature, I am inclined to conclude that she does have a voting conflict on this matter. Her position as a member of a Board of Trustees, which at the hospital level is the highest board involved in the decision-making process, as well as the fact that the members of that Board are officially appointed to serve a term of years during which they regularly counsel and consult with the hospital management, places her into the category of a director or consultant. There is no requirement in the ordinance that the position involve any payment or salary. The consultation in this case includes the issue that is before the City Commission. Further, while the Mayor does not have any financial interest in the issue at hand, her service on the board, which may be considered of an honorary nature, would likely be at risk if she opposed the expansion of the very hospital on whose Board of Trustees she sits, approval of which is greatly desired by the hospital management. It would seem, therefore, that she could be personally enhanced as an elected official and community leader in maintaining her position with the hospital. I have concluded, therefore,

that she would have a voting conflict of interest regarding an issue of this nature that directly and substantially affects the hospital.

Given that the matter in question involves a quasi-judicial hearing, it is also noteworthy that under Section 286.012, Florida Statutes, an official is permitted to refrain from voting even if there is no legal conflict, where the official does so to “assure a fair proceeding free from potential bias or prejudice.”

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



From: Robert Meyers [<mailto:RMeyers@wsh-law.com>]
Sent: Tuesday, June 13, 2017 3:55 PM
To: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Cc: David M. Wolpin <DWolpin@wsh-law.com>
Subject: FW: Voting Conflict Question -- Aventura

Dear Joe:

Pursuant to our conversation, we have been authorized by Mayor Enid Weisman to request an ethics opinion. In a nutshell, Enid Weisman is the Mayor of the City of Aventura and serves as an unpaid board member of the Aventura Hospital and Medical Center and also sits on the hospital's Credentialing Committee as its only layperson. The hospital is a private, for – profit hospital. Mayor Weisman has advised us that neither Board of Trustees nor the Credentialing Committee has any formal power. Since the committee assignment is a function of her board position, I will limit the remainder of the request to her board service. The Board of Trustees acts purely in an advisory capacity. In its advisory capacity, the Board makes recommendations to the CEO/President of HCA East Coast, Michael Joseph. The Mayor further advises us that the Board's primary function is to engage in community relations.

In the conversation I had with the Mayor, she alluded to bylaws that spell out the Board of Trustee's areas of responsibility/authority. I accessed the Hospital's website and found no description of the Board's duties or its bylaws. I also attempted to reach out to Mr. Joseph – President/CEO -- to gain a better understanding of the role of the Board of Trustees, how appointments are made, etc., but had no success reaching him.

There are two Hospital items scheduled to be heard by the City Commission at its meeting of June 14, 2017 (Agenda Items 7a and 7b). These items involve setbacks and floor area ratios for the new buildings at the Hospital. The Commission will hear these matters in its quasi-judicial capacity. Based on the above facts, we wish to know whether Mayor Weisman's board service creates a voting conflict for her, precluding her from voting on the Aventura Hospital items scheduled to be heard at the June 14th meeting.

Before you draft your opinion, you may want to consider contacting Mayor Weisman at 786-213-1225 to obtain additional facts and to confirm the facts that I am providing you. Since these items are on the agenda for tomorrow evening's meeting, we would appreciate it if you could provide the Mayor some guidance prior to the meeting.

If you have any questions, please contact me at your convenience.

Thanks,

Robert

Robert Meyers



WEISS SEROTA HELFMAN
COLE & BIERMAN
AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW



|,

P: F: wsh-law.com | vCard



THINK BEFORE YOU PRINT

This message, together with any attachments, is intended only for the addressee. It may contain information which is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, use, or any action or reliance on this communication is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately by telephone or by return e-mail and delete the message, along with any attachments.

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.