

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, August 15, 2017 3:38 PM
To: Sanchez, Rodzandra (COE)
Subject: Eli Tourgeman, Pres. Surfside Business Association, Lobbying (s)/Sec. 2-235 Surfside Code, INQ 17-199
Attachments: INQ 17-68 Tourgeman.pdf

[INQ 17-199 Tourgeman](#)

From: Perez, Martha D. (COE)
Sent: Tuesday, August 15, 2017 3:14 PM
To: eli.tourgeman@marriott.com
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; hsera@wsh-law.com
Subject: Eli Tourgeman, Pres. Surfside Business Association, Lobbying (s)/Sec. 2-235 Surfside Code, INQ 17-199

Dear Mr. Tourgeman,

You inquire whether, as a former elected official, you may represent the Surfside Business Association, Inc. (hereinafter "SBA"), a not-for profit corporation made up of volunteers whose goal is to promote Surfside's business district, and be exempt from the lobbyist definition under Section 2-235(b) of the Town of Surfside Code-Lobbying.

Background

You are the President of the SBA and a former Commissioner of the Town of Surfside. The SBA is a not-for-profit organization registered under the State of Florida Division of Corporations. It is made up of volunteers whose goal is to promote Surfside's business district. There are no membership fees associated with the organization; any business operating in the Town can be assisted; and, the organization's involvement with the Town involves advocating for or on behalf of any business in the Town. As president of the SBA you would like to know whether the SBA meets the definition of a "*not-for-profit organization or entity* (such as charitable organization, a *trade association* or trade union)" under the lobbyist exemption as defined in the Lobbyist Ordinance of the Town of Surfside and hence, exempt you from the lobbyist registration requirements under the code. The SBA is a not-for-profit organization which arguably, meets the definition of a trade association, i.e., "a group of merchants or business entities coming together to promote common interests." See Merriam-Webster Dictionary

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (hereinafter "County Ethics Code"), codified at Section 2-11.1, constitutes a *minimum* standard for municipal personnel, officials, agencies and entities. See Section 2-11.1(a), County Ethics Code. In other words, the County Ethics Code supersedes all similar but less stringent provisions in municipal ordinances pertaining to conflict of interest and ethics standards. Section 2-11.1(s)(b) of the County Ethics Code ("Lobbying") excludes from the definition of "lobbyist", any person who only appears as a representative of a neighborhood association without compensation, to express support or opposition to any item as well as, any person who appears as an uncompensated representative of a not-for-profit community based organization (CBO) for the purpose of requesting a grant. The SBA does not meet the definition of a not-for-profit neighborhood association or a CBO, therefore, it is not excluded from the County's definition of "lobbyist." See RQO 04-07 (The Miami Beach Chamber of Commerce-an organized group focusing on the interests of its business members- does not meet the definition of a neighborhood association or a CBO). Moreover, pursuant to Section 2-11.1(s)(4), any person who only appears as an

uncompensated representative of a *not-for-profit corporation or entity* (such as a charitable organization, *trade association* or trade union), to express support or opposition to any item **shall register with the Clerk but is exempt from the registration fee.** See INQ 15-26 (uncompensated representative of non-profit entity would be required to register as a lobbyist but would not be required to pay any lobbyist registration fees).

In contrast, Section 2-235(b) of the Town of Surfside Code entitled, "Lobbying", specifically excludes from the definition of "lobbyist" (and correspondingly its requirements) "any person who only appears as a representative of a *not-for-profit corporation or entity* (such as charitable organization, *a trade association* or trade union)," without special compensation or reimbursement to express support or opposition of an item. We conclude that this exception to the definition of "lobbyist" under the Surfside Lobbying Ordinance is less stringent than the definition under the County's Lobbying Ordinance, hence, Section 2-235(b) of the Town of Surfside Code is preempted by the *minimum* standards set forth in Section 2-11.1(s) of the County Ethics Code.

As a former elected official in the Town of Surfside who left office less than two years ago, you are also subject to Section 2-11.1(q) of the County Ethics Code ("Two-Year Rule"), which prohibits you from lobbying any Town official, officer, departmental personnel or employee, in connection with any matter concerning the Town, *unless* you are lobbying on behalf of a government, *non-profit* or educational organization or appearing in a publicly-noticed quasi-judicial proceeding. See INQ 17-74. In this instance, you intend to lobby on behalf of the SBA- a *non-profit organization*, therefore, you would be exempt from the post-employment restriction under Section 2-11.1(q) of the County Ethics Code.

Consequently, as an uncompensated representative of the SBA, you may lobby on behalf of the SBA provided you register with the Town Clerk, but you are exempt from the lobbyist registration fees.

As a reminder, any lobbying by a representative of a non-profit organization must be undertaken on behalf of and for the benefit of the non-profit organization as a whole and may not be a pretext to advocate on behalf of any individual private for-profit business entity which employs or retains the representative to advocate on its behalf, as such activity may be considered lobbying on behalf of a for-profit entity/principal, prompting lobbyist registration and restrictions under the "Two-Year Rule." See Section 2-11.1(s) and (q), County Ethics Code; INQ 17-68

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

Sincerely,

Martha D. Perez

Staff Attorney

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From: Tourgeman, Eli [<mailto:eli.tourgeman@marriott.com>]

Sent: Wednesday, July 26, 2017 10:17 AM

To: Ethics (COE) <ethics@miamidade.gov>

Subject: question on ethics

Good morning Joe:

as I read Sect 2-235(1)b. Lobbyist from the Town of Surfside, it states that the term " lobbyist" specifically **excludes** any person who only appears as a representative of a not for profit corp or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support or opposition to any item. As a former elected official and as I read the above those that means that I can represent the business district on issues, since I am the President of the Surfside Business Association a not-for-profit corp and I do not receive any compensation for such action. Looking on to you for direction and advise.

thank you again,

"One team, One goal"

Eli Tourgeman
Accountant Generalist

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