

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, August 25, 2017 9:05 AM
To: Sanchez, Rodzandra (COE)
Subject: Ysabely Rodriguez, Village Clerk, Miami Shores Village (Sunshine Law) INQ 17-213

Importance: High

INQ 17-213 Rodriguez

From: Ethics (COE)
Sent: Thursday, August 24, 2017 3:41 PM
To: 'Ysabely Rodriguez' <RodriguezY@msvfl.gov>
Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Sanchez, Gerald (CAO) <Gerald.Sanchez@miamidade.gov>; Kirtley, Eddie (CAO) <Eddie.Kirtley@miamidade.gov>
Subject: INQ 17-213 Ysabely Rodriguez, Village Clerk, Miami Shores Village (Sunshine Law)
Importance: High

Ms. Rodriguez:

You have inquired concerning whether an elected official may participate and vote via teleconference during a Council meeting where there is a quorum of the Council present. This issue falls within the Florida Sunshine Law, Section 268.011, which deals with the requirements for open meetings by public boards and committees, and which is applicable to any elected body in the State of Florida. While there is no specific provision in the Sunshine Law which clearly addresses this issue, the Florida Attorney General has opined that a quorum must be physically present to meet the requirements of the Sunshine Law. See AGO 98-28, as well as that telephone access may be utilized by a single board member whose absence is due to a serious medical condition. See Informal Advisory Opinion of the Florida Attorney General to Robert A. Sugarman, August 5, 2015. However, there has been no definitive court decision which has determined whether a board member may participate by telephone in a meeting where there is a quorum physically present. There are municipal attorneys who have reached conflicting conclusions on this issue. For instance, the Miami-Dade County Attorney has taken the position that such participation is not permissible under the Sunshine Law. However, I am also aware that some municipal attorneys, including some who represent Miami-Dade County municipalities, have taken the position that a member may participate and vote at a meeting, provided that there is a quorum physically present.

The Miami-Dade County Commission on Ethics provides guidance on the Sunshine Law in response to requests for opinions from County and municipal officials, due to its having been designated by County Ordinance to provide training on the Sunshine Law to elected officials in the County as well as municipalities within the County. However, since there is no definitive ruling at this point on the issue in question, and because the Commission does not have enforcement authority over violations of the Sunshine Law (which is enforced by the State Attorney), we have deferred to local municipal attorneys on the specific issue of telephone participation by a single member of a board when there is a quorum physically present. Therefore, I suggest that you refer your inquiry to the municipal attorney for Miami Shores, and that you abide by the opinion of your municipal attorney regarding this matter.

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

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From: Ysabely Rodriguez [<mailto:RodriguezY@msvfl.gov>]
Sent: Thursday, August 24, 2017 12:14 PM
To: Ethics (COE) <ethics@miamidade.gov>
Subject: Elected Officials

Good Afternoon,

What's the Commission's opinion on an elected official who is voting via teleconference during a Council Meeting where there is a pre-existing quorum?

Kindly,

Ysabely Rodriguez, MPA, CMC
Village Clerk
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