



Via First Class Mail
and
Email at law@ dnevel.com

March 22, 2011

ETHICS COMMISSIONERS

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STAFF GENERAL COUNSEL

David H. Nevel, P.A.
950 S. Pine Island Rd., Suite A-150
Plantation, FL 33324

Re: RQO 10-24 Russell W. Galbut

Dear Mr. Nevel:

In public session on March 21, 2011, the Miami-Dade Commission on Ethics opined on the circumstances under which your client, Russell Galbut, who is a business associate of City of Miami Beach Planning Board member Seth Frohlich, may lobby the City.

In brief, the Ethics Commission found that under the City of Miami Beach Code of Conduct at Sec. 2-459 Mr. Galbut may lobby the City, except on behalf of entities in which he and Mr. Frohlich have a business relationship.

THE FACTS you presented are that Russell Galbut is employed by an investment group with an ownership interest in the Mondrian Condominium Hotel. Seth Frohlich, a City of Miami Beach Planning Board member, holds a financial interest in the Mondrian Condominium Hotel.

THE MIAMI BEACH CITY CODE at Sec. 2-459 prohibits board members from appearing before the City either directly or through an associate on behalf of a third-party entity. The legislative intent of this section of the code is to avoid even the mere appearance of undue influence, cronyism, and influence peddling. To this end, the City specifically created stringent standards of conduct for board members and their associates.¹

PROCEDURALLY, Mr. Galbut received a legal opinion from the City of Miami Beach City Attorney's Office on August 30, 2010, dissuading him to lobby based on his business relationship with Mr. Frohlich and the intent of the City lawmakers to avoid cronyism.²

On September 8, 2010, Mr. Galbut requested an opinion from the Ethics Commission regarding the applicability of Sec. 2-459 to his particular fact pattern.

On September 15, 2010, the Ethics Commission asked the City of Miami Beach Attorney's Office and Ethics Commission staff to study the matter further. Both offices subsequently determined that a business association existed between Mr.

¹ Preamble to City of Miami Beach Ordinance No. 97-3105 and minutes of the Miami Beach City Commission Meeting related to amending the ordinance, May 16, 2007.

² Email addressed to Russell Galbut from Gary Held, First City Attorney for the City of Miami Beach, Aug. 30, 2010.

Galbut and Mr. Frohlich, but the association did not bar Mr. Galbut from appearing before the City of Miami Beach on matters unrelated to their mutual business relationship.

IN CONCLUSION, the Ethics Commission ruled on the facts presented as follows:

- Russell Galbut may appear and lobby in the City of Miami Beach on behalf of any projects in the City, provided that Seth Frohlich has no financial interests in such projects. (Miami Beach Code at Sec. 2-459.)
- Russell Galbut may *not* appear or lobby before the City on any matter in which Seth Frohlich has a business interest, such as the Mondrian Hotel. (Miami Beach Code at Sec. 2-459.)
- Russell Galbut may not appear before the City of Miami Beach Planning Board on any project in which Seth Frohlich may benefit from the appearance. (County Code at Sec. 2-11.1 (m).)
- Seth Frohlich must recuse himself on all matters that come before the Planning Board involving the Mondrian Hotel. (County Code at Sec. 2-11.1 (v).)

This opinion construes the Miami-Dade Conflict of Interest & Code of Ethics Ordinance and the City of Miami Beach Code of Conduct, but it is not applicable to any conflict under State law. Inquiries regarding possible conflicts under State law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact or me or Staff Attorney Victoria Frigo if we can be of further assistance in this matter.

Sincerely,



ROBERT MEYERS
Executive Director

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