

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, June 06, 2018 2:43 PM
To: Sanchez, Rodzandra (COE)
Subject: Orlando Borges, Board Member, South Miami Planning Board, Voting Conflict, 2-11.1(v), INQ 18-133

INQ 18-133 Borges

From: Perez, Martha D. (COE)
Sent: Wednesday, June 06, 2018 12:20 PM
To: oborges111 <oborges111@gmail.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>
Subject: Orlando Borges, Board Member, South Miami Planning Board, Voting Conflict, 2-11.1(v), INQ 18-133

Dear Lt. Borges,

It was a pleasure meeting you. You inquire whether you have a prohibited conflict of interest participating and/or voting on an issue which is coming before the City of South Miami Planning & Zoning Board (Planning Board) of which you are a member.

Background

- o You are a member of the Planning Board. The Board is comprised of seven (7) members whose duties consist of: investigating and recommending to the City Commission changes in the boundaries of the various use districts, zoning regulations, use of land and type of construction, locations and use of all structures on any valid application submitted to it; reviewing and making recommendations on all applications for a change in zoning district boundaries, provisions of the LDC Code, determination and continuance of nonconforming uses and applications for special uses/ variances. The South Miami Commission receives recommendations and is guided by the Planning Board. You are also a member (parishioner) of Fellowship Church located in the city. The Church will be appearing before the P&Z Bd. regarding a project. You have no interest, financial or otherwise, in the matter. You would like to know if you may participate and vote on the project being presented to the Planning Board by the Church.

Analysis

Section 2-11.1(v) of the County Conflict of Interest and Code of Ethics Ordinance, prohibits a board member from voting on matters presented to an advisory or quasi-judicial board on which the board member sits if the board member would be directly affected by the action of the board he serves and he has any of the following relationships with the third party (ie., the Fellowship Church): (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor."

Additionally, Section 20-6.1(B)(f) of the City of South Miami Land Development Code states that, "any member of the [Planning] board who has a special financial interest, direct or indirect, in any matter shall make that interest known and abstain from participation therein in any manner." County and city ordinances refer to "financial interest" in terms of ownership. See Section 2-11.1(b)(8), County Ethics Code; Section 8A-1, South Miami Ethics Code.

You do not have any of the prohibited relationships referenced herein with the Church; you are a parishioner; you have no special financial interest in the Church or in the matter being presented to the Planning Board; and, as you have

indicated, you would not be affected in any way by the board's action. Consequently, you may participate and vote on the Fellowship Church issue. See RQO 06-52

I must point out that, in those instances where a city board is a quasi-judicial board, Section 286.012, Fla. Stats., provides, in part, that, "If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member *may* abstain from voting on such a matter if the abstention is to assure a fair proceeding free from potential bias or prejudice." In this instance, you have indicated that you would be impartial and your recommendation would be for the "betterment of my city."

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

Sincerely,

Martha D. Perez
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From: oborges111 [<mailto:oborges111@gmail.com>]
Sent: Monday, June 04, 2018 12:33 PM
To: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>
Subject: City of South Miami Planning and Zoning Board

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Good afternoon Ms. Perez it was a pleasure meeting you this morning in your office, as per our conversation I am putting my question in writing.

I am a retired Lieutenant for Miami Dade fire rescue and I am a resident of the city of South Miami for 28 years. I was recently appointed to the Planning and Zoning Board of the city

I am in parishioner at fellowship church located in the city of South Miami the church has a project that is going back to the Planning and Zoning Board that I am a member of.

The present plan that is going in front of this board I have had no input or have seen the new plans due to my mother's grave illness I have been out of the process of helping the church as a volunteer for approximately over 2 months.

As I stated in our conversation I have never been an employee I've never been a lobbyist and I have no Financial gains directly or indirectly in this project.

I feel very strongly I can be impartial and fair and make a recommendation for the betterment of my city.

I would like your opinion that given the facts I would like to make sure I have no conflict of issue.

Thank you very much for your time and cooperation.

Respectfully
Lieutenant Orlando Borges

Sent from my T-Mobile 4G LTE Device