

Sanchez, Rodzandra (COE)

From: Perez, Martha D. (COE)
Sent: Tuesday, July 17, 2018 2:13 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Thomas Pepe, City Attorney, South Miami, Conflict of interest Orlando Borges, Planning Board, Appearances prohibited (m)(2), INQ 18-171
Attachments: Borges application.pdf

[INQ 18-171](#)

From: Perez, Martha D. (COE)
Sent: Monday, July 16, 2018 4:21 PM
To: 'Pepe, Thomas F.' <TPepe@southmiamifl.gov>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Thomas Pepe, City Attorney, South Miami, Conflict of interest Orlando Borges, Planning Board, Appearances prohibited (m)(2), INQ 18-171

Dear Mr. Pepe,

You inquire whether there are any ethical provisions which would prohibit Orlando Borges (Borges), a member of the South Miami Planning Board, from addressing a matter regarding Fellowship Church where he is a parishioner and applicant/owner in a hearing before the Planning Board which he serves.

Borges filed an Application for Public Hearing before Planning Board and City Commission (Page 33 attached herein) where he identifies himself as the Applicant on behalf of Fellowship Church, and further identifies himself as the "Owner" of the subject Church project. This Application was signed on October 11, 2017. Interestingly, Borges met with me in person in June 2018 and advised me that his role with the church was solely as a parishioner/ volunteer and that he had "never been an employee [or] lobbyist [or had] any financial gains directly or indirectly in this project." His description of his relationship (lack of) with the Church at that time triggered INQ 18-133.

Borges is a member of the Planning Board, an advisory board which makes recommendations to the City of South Miami Commission on zoning and land use changes. The matters coming before the Board this evening related to the Church consist of requests for changes to the Comprehensive Plan Future Land Use map and zoning (subject-matter requests). If the Commission ultimately approves the requested changes, their decision would impact the Church's application submitted *by Borges*.

As the Applicant and "Owner" of the Fellowship Church, Borges is acting, at a minimum, as the representative or agent for the Church. If Borges is a pseudo officer of the Church or had any other prohibited relationship addressed in INQ 18-133, his participation and/or vote in this matter would trigger a voting conflict under Section 2-11.1(v) of the County Ethics Code, rendering INQ 18-133 inapplicable as to the newly discovered facts.

Notwithstanding, as a member of the Planning Board, Borges is subject to Section 2-11.1(m)(2) of the County Ethics Code which governs appearances before boards. Under that section, a member of an advisory board may not appear before the board in which he or she is a member to make a presentation on behalf of third persons or entities with respect to any benefit sought by that third party, or to accept compensation, directly or indirectly, from a third party seeking a benefit from the board. By signing the application and holding himself out as an agent ("owner") of the Church, Borges is prohibited from addressing his board on the subject-matter requests which will ultimately impact the

Application referenced herein. Consequently, Borges is prohibited from making any presentation on behalf of the Church regarding matters which affect or otherwise impact the Application he submitted in October 2017. Additionally, it is recommended that any vote or participation by Borges on the subject-matter requests should be avoided given his special interest and close relationship with the Church as evidenced on the Application.

Additionally, Borges should be reminded that the County Code at Section 2-11.1(g) prohibits exploitation of one's official position with the city, its agencies, boards or department, in order to secure a special privilege or exemption for himself, herself or others.

This opinion is based on the facts as have been presented. If any of these facts change (as they appear to have changed already), please contact us.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

PEREZMD@miamidade.gov

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From: Pepe, Thomas F. [<mailto:TPepe@southmiamifl.gov>]

Sent: Monday, July 16, 2018 11:45 AM

To: Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>

Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>

Subject: RE: Orlando Borges, Board Member, South Miami Planning Board, Voting Conflict, 2-11.1(v), INQ 18-133

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I was just put on notice that Fellowship Church had given Mr. Borges a power of attorney to filed an application on behalf of the Church concerning land use and/or zoning and that Mr. Borges has exercised that power by filing an application with the City's Planning and Zoning Department. Is that one of the prohibited relationship, i. e., (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor."

If so, does that affect his ability to vote on other matters concerning that same property owned by Fellowship Church?

If not, does that relationship in any other way affect his ability to consider applications by Fellowship Church concerning the same property.

Very truly yours,

Thomas F. Pepe

City Attorney, Board Certified by the Fla. Bar

in City, County and Local Government Law.

City of South Miami

1450 Madruga Avenue, Ste 202,

Coral Gables, Florida 33146

Tel: (305) 667-2564
Fax: (305) 341-0584
E-mail: tpepe@southmiamifl.gov

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From: Diaz-Greco, Gilma M. (COE) [Gilma.Diaz-Greco@miamidade.gov]
Sent: Wednesday, June 06, 2018 2:50 PM
To: Pepe, Thomas F.
Cc: Centorino, Joseph (COE)
Subject: FW: Orlando Borges, Board Member, South Miami Planning Board, Voting Conflict, 2-11.1(v), INQ 18-133

Mr. Pepe:

Below is the opinion that was provided to Mr. Borges (you had also communicated with us about this matter) who sits on the City of South Miami Planning and Zoning board regarding any potential voting conflicts with respect to Fellowship Church. Ms. Perez and I have both discussed this matter Mr. Borges and Ms. Perez responded to his inquiry.

Please contact us if you have further questions,

Cordially,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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
gdiazgr@miamidade.gov
www.facebook.com/MiamiDadeEthics

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

- 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

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

PEREZMD@miamidade.gov

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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

This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected emails. Please click here if this is a suspicious message reportspam@miamidade.gov **Enterprise Security Office**

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



City of South Miami
Planning & Zoning Department
City Hall, 6130 Sunset Drive, South Miami, Florida 33143
Telephone: (305) 663-6326; Fax: (305) 668-7356

Application for Public Hearing before Planning Board & City Commission

Address of Subject Property: 6781 Sunset Drive	Lot(s) _____ Block _____ Subdivision _____ PB _____
Meets & Bounds: See Exhibit "A"	
Applicant: Fellowship Church	Phone: 786-307-8217 <i>ORLANDO BORGES</i>
Representative: Jorge L. Navarro, Esq.	Organization: Greenberg Traurig, P.A.
Address: 333 SE 2nd Avenue, Suite 4400 Miami, Florida 33131	Phone: 305-579-0821
Property Owner: Fellowship Church	Signature: _____
Mailing Address: 2450 Highway 121 North Grapevine, TX 76051	Phone: _____
Architect/Engineer: Peter Blitstein	Phone: 305-444-4433

AS THE APPLICANT, PLEASE INDICATE YOUR RELATIONSHIP TO THIS PROJECT:

☒ Owner ☐ Owner's Representative ☐ Contract to purchase ☐ Option to purchase ☐ Tenant/Lessee

APPLICATION IS HEREBY MADE FOR THE FOLLOWING:

PLEASE CHECK THE APPROPRIATE ITEM:

- | | |
|--|--|
| <input type="checkbox"/> Text Amendment to LDC | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Special Use |
| <input type="checkbox"/> PUD Approval | <input type="checkbox"/> Special Exception |
| <input type="checkbox"/> PUD Major Change | <input checked="" type="checkbox"/> Other (Waiver of Plat) |

Briefly explain application and cite specific Code sections:

See Letter of Intent

Section: _____ Subsection: _____ Page #: _____ Amended Date: _____

SUBMITTED MATERIALS

PLEASE CHECK ALL THAT APPLY:

- ☒ Letter of intent
☒ Justifications for change
☐ Statement of hardship
☒ Proof of ownership or letter from owner
☐ Power of attorney
☐ Contract to purchase
☒ Current survey (1 original sealed and signed/1 reduced copy @ 11" x 17")
☒ 15 copies of Site Plan and Floor Plans 24 x 36", 1 reduced copy @ 11" x 17"
☐ Affidavit-Receipts attesting to mail notices sent
☒ Mailing labels (3 sets) and map
☒ Required Fee(s)

The undersigned has read this completed application and represents that the information and all submitted materials are true and correct to the best of the applicant's knowledge and belief.

[Signature]
Applicant's Signature and title

ORLANDO BORGES
Print Name

OCT 11/17
Date

Upon receipt, applications and all submitted materials will be reviewed for compliance with the Land Development Code and other applicable regulations. Applications found not in compliance will be rejected and returned to the applicant.

OFFICE USE ONLY:

Date Filed _____	Date of PB Hearing _____	Date of Commission _____
Petition Required _____	Petition Accepted _____	
Method of Payment _____		

Z:\Forms\Current Planning Department Forms\Planning Department Forms\Planning Board\PB - Waiver of Plat Application - Revised 4-30-2013.doc

July 16, 2018

Orlando Borges

57821 sw 53 terr

South Miami Fl.


33155

Ms. Martha D. Perez,

I am in receipt of your correspondence to City Attorney Tomas Pepe regarding my involvement in the Church and my signature of a certain document related to the application. This correspondence is to confirm and clarify that I have not (nor I have ever) been an employee, lobbyist or financially compensated by the Church as part of this project. I am simply a resident of the City of South Miami and a volunteer/parishioner of the Church. At the time the application was executed, I was asked by the Church to sign the application on their behalf as they did not have a local signatory present and there was a time sensitive application deadline approaching. I signed the application solely as a courtesy to the church due to my many years as a committed parishioner and was never compensated for signing this application nor does the signature of that application make me an owner of the property.

For your review, I have attached a copy of the corporate filings for Fellowship Church Miami, Inc. which reflects that I am not a director or officer of the company. I am also attaching a letter from the Church confirming that I am not an employee and that I am not (nor have I ever been) compensated by the Church during my time as a parishioner. I hope this additional information helps clarify my limited involvement with the Church and alleviates any concerns regarding my ability to vote on this project as a member of the City's Planning and Zoning Board. I believe that there should be no conflicts of interest that would prohibit me from participating in the vote as I do not have a financial interest in the outcome.

Respectfully


Orlando Borges Lieutenant Rt.



FELLOWSHIP CHURCH

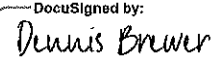
Re: Res No 2417

Dear Madams and Sirs:

I am Dennis G. Brewer, Jr., the Chief Financial Officer and corporate Secretary of Fellowship Church. Please allow this correspondence to confirm that Mr. Orlando Borges is not now, nor has he ever been, an officer, director, employee, or control party for Fellowship Church. Mr. Borges is simply a parishioner of the Church who was authorized to sign the original application on behalf of Fellowship Church. To the best of my knowledge, Mr. Borges certainly has no financial interest in the proposed project. He has not now, nor will he in the future, receive any funds from the Church for his assistance of signing this document for the Church.

If I can answer any questions in this regard, you may reach me at (817) 614-0631. Should you choose to contact me, it would be helpful if you would precede your call with a text.

Yours truly,

DocuSigned by:

BEQ09159FB0A419...
Dennis G. Brewer, Jr.

2017 FOREIGN NOT FOR PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# F06000004768

Entity Name: FELLOWSHIP CHURCH MIAMI, INC.**Current Principal Place of Business:**6767 SUNSET DR.
MIAMI, FL 33143**Current Mailing Address:**2450 HIGHWAY 121 NORTH
GRAPEVINE, TX 76051**FEI Number:** 75-2302539**Certificate of Status Desired:** No**Name and Address of Current Registered Agent:**CORPORATE CREATIONS NETWORK, INC.
11380 PROSPERITY FARMS ROAD #221E
PALM BEACH GARDENS, FL 33410 US*The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.***SIGNATURE:**

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title	DIR
Name	YOUNG, ED
Address	2450 HIGHWAY 121 NORTH
City-State-Zip:	GRAPEVINE TX 76051

Title	DIR
Name	CROSS, JOHN
Address	13000 S. TAMIAMI TRAIL
City-State-Zip:	NORTH PORT FL 34287

Title	DIR
Name	RICHARD, MAC
Address	11431 FM 2244
City-State-Zip:	AUSTIN TX 78733

Title	SECRETARY
Name	BREWER, DENNIS G
Address	2450 NORTH HIGHWAY 121
City-State-Zip:	GRAPEVINE TX 76051

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 617, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: DENNIS G. BREWER, JR.**SECRETARY****07/03/2017**

Electronic Signature of Signing Officer/Director Detail

Date