

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, January 26, 2018 3:31 PM
To: Sanchez, Rodzandra (COE)
Subject: Melissa Fernandez-Stiers, Attorney/Lobbyist (Two-Year Rule, City of Miami CRAs) INQ 18-22

INQ 18-22 Fernandez-Stiers

From: Perez, Martha D. (COE)
Sent: Friday, January 26, 2018 12:26 PM
To: melissa.fernandez-stiers@akerman.com
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>; Alban, Xavier E. <XEAlban@miamigov.com>
Subject: RE: Melissa Fernandez-Stiers, Attorney/Lobbyist, Two-Year Rule, City of Miami CRAs, INQ 18-22

Dear Melissa,

You inquire whether the post-employment restrictions discussed in INQ 18-02 apply to lobbying activities before the City of Miami's community redevelopment agencies (CRAs).

Background

CRAs are independent taxing authorities established under Part III of Chapter 163, Florida Statutes- the Community Redevelopment Act of 1969 (the Act). The Act authorizes counties and municipalities to *create* these agencies, prepare redevelopment plans for defined areas and delegate redevelopment powers to the agencies at the discretion of the County and/or respective municipalities. CRAs are primarily funded by tax increments of the properties within their respective boundaries and partly funded by the County.

In Miami-Dade County, the Board of County Commissioners (BCC) has delegated to municipalities the power to create fourteen (14) CRAs, three of which are in the City of Miami: Southeast Overtown/Park West (SEOPW), Omni and Midtown. These CRA boards are comprised of City of Miami commissioners.

You are a former City of Miami employee who left city service less than two years ago, therefore, as established by INQ 18-02 below, you fall under the County's "Two-Year Rule" (Section 2-11.1(q), County Ethics Code) and Section 2-612, City of Miami Code.

Analysis

CRAs are independent taxing authorities established under Chapter 163, Florida Statutes (Section 163.330 et seq.) and subject to the State ethics laws. See Section 163.367, Fla. Stat.; INQ 09-158; INQ 11-18. The City of Miami has established three CRAs, each of which is a separate and independent agency, distinct from the City.

As discussed in INQ 18-02, Section 2-612 (a), (c) - *Appearances before city boards*- prohibits an employee from appearing in any capacity on behalf of a third party before any board, commission or agency of the city for two years after the employee has left city service. Unlike the County, the City of Miami ordinance does not have exceptions for non-profit agencies such as your client, Friends of the Underline.

The enabling ordinance codifying the original Miami CRA establishes the CRA as a corporate body separate and distinct and independent from the governing body of the City. See COE Staff Memoranda from Victoria Frigo 9/17/2009 and

5/18/2010. Thus, the Miami CRAs do not fall under the category of “city boards” pursuant to Section 2-612. See City of Miami City Attorney Opinion #06-008 (Individuals who appear before the CRA are not required to register to lobby because “the CRA does not fall into one of the categories of entities included in the definition of ‘lobbyist’ [ie . city commission, city board or committee; city manager].”

Consequently, representations before City of Miami CRAs would not be restricted by the County’s “Two-Year Rule” or Section 2-612 of the City of Miami Code.

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

Best regards,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
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From: melissa.fernandez-stiers@akerman.com [<mailto:melissa.fernandez-stiers@akerman.com>]
Sent: Tuesday, January 16, 2018 11:21 PM
To: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>
Subject: RE: Melissa Fernandez-Stiers, Attorney/Lobbyist, Two-Year Rule, City of Miami, INQ 18-02

Dear Martha:

I hope you had a restful long weekend. Can you also clarify for me what my restrictions would be with respect to CRA’s?

Thank you,

Melissa Fernandez-Stiers
Associate
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From: Perez, Martha D. (COE) [<mailto:Martha.Perez2@miamidade.gov>]
Sent: Monday, January 8, 2018 1:54 PM
To: Fernandez-Stiers, Melissa (Assoc-Mia) <melissa.fernandez-stiers@akerman.com>
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: Melissa Fernandez-Stiers, Attorney/Lobbyist, Two-Year Rule, City of Miami, INQ 18-02

Dear Ms. Fernandez-Stiers,

It was a pleasure speaking with you. You inquire regarding the lobbying restrictions that may apply to you following your separation from employment from the City of Miami, specifically as it relates to representation on behalf of Friends of Underline (FOU), a 501 (c)(3) non-profit organization, before the City of Miami.

Background

You are an attorney currently employed with Akerman LLP. You represent clients in land use and development matters as well as provide assistance with government affairs, legislation and procurement of government contracts. (See www.akerman.com) Prior to your employment with Akerman, you served as Chief of Staff for Commissioner Francis Suarez in the City of Miami from April 1, 2014 to October 31, 2017. Your firm has been retained by Friends of the Underline to represent it on a *pro bono* basis before the City of Miami and other state, county and municipal agencies.

Friends of the Underline (FOU) is a 501(c)(3) non-profit organization founded by Meg Daly in 2013, with the goal of advocating to the community and engaging in fundraising to transform the 10 miles of pathway beneath the Metrorail from Brickell to Dadeland Stations into a world-class urban trail consisting of a green walkable, bikeable corridor designed to improve connectivity between the surrounding neighborhoods and downtown destinations. The organization gets funding from private entities, the State of Florida (i.e., Florida Legislature), Miami-Dade County (through partnership with the County's PROS) and municipalities (i.e., City of Coral Gables) . See www.theunderline.org.

With respect to the City of Miami's involvement in Phase I, The Underline Brickell Backyard, Commissioner Francis Suarez has been an eager proponent of the project, procuring millions in funding (See FOU Public Meeting: The Underline Brickell Backyard Phase I Design Proposals, Southside Elementary, January 19, 2017) and sponsoring an ordinance amending part of the City Code to establish a trust fund- "Underline Public Benefits Trust Fund"- to generate economic development in the area through public benefit funding (See City of Miami Commission Meeting Agenda File No. 3225, December 14, 2017) [This item has been continued to the City of Miami Commission Meeting tentatively scheduled for January 11, 2018].

Analysis

The County Ethics Code generally prohibits former County/municipal employees from lobbying the County/municipality for two years following their departure from County/municipal employment. However, this post-employment restriction does not apply to former County/municipal employees who subsequently become employed or retained by 501(c)(3) nonprofit organizations, governmental entities, or educational institutions. See Section 2-11.1(q), County Ethics Code; RQO 06-54; INQ 13-176; INQ 17-30 (County employee providing pro bono services to non-profit entity may lobby the County).

Notwithstanding, municipalities may set stricter standards than those included in the County Ethics Code. The City of Miami has enacted a more stringent standard of conduct with respect to its post-employment restrictions, as evidenced by Section 2-612 of the City of Miami Code which prohibits an employee from appearing "in any capacity on behalf of any third party before any board, commission or agency of the city ... for a period of two years after the officer, official, or employee has left city service or terminated city employment." The City Ordinance does not make exceptions for representations on behalf of non-profit organizations, governmental entities or educational institutions.

Consequently, as a former City of Miami employee who separated from City employment less than two years ago, you may not lobby City officials and personnel on behalf of a third party. This prohibition does not apply to your representation on behalf of FOU before Miami-Dade County or other municipalities (Should you have any additional questions regarding lobbying requirements in the County or other municipalities, please contact us).

Another important provision of the County Ethics Code which may impact former City employees such as yourself is Section 2-11.1(h)-*Confidential Information*- which prohibits the disclosure of confidential information gained

through one's official position with the City or the use of such information, directly or indirectly, for personal gain or benefit. If the decision-making process on any matter connected to FOU is related to work you formerly performed as Commissioner F. Suarez' Chief of Staff, you should consider whether you have access to confidential information through your years of City service which may give FOU an advantage in its dealings with the City. See INQ 17-100; INQ 16-109.

This opinion is based on the facts as presented. If any of these facts change or, in the event you are concerned about a specific activity or communication with respect to your role as a lobbyist, we encourage you to seek an opinion from this office.

Sincerely,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
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From: melissa.fernandez-stiers@akerman.com [<mailto:melissa.fernandez-stiers@akerman.com>]
Sent: Thursday, January 04, 2018 10:11 AM
To: Ethics (COE) <ethics@miamidade.gov>
Cc: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>
Subject: RE: Request for Opinion re: Interpretation of Two-Year-Rule

Thank you, Mr. Centorino and Ms. Perez.

Melissa Fernandez-Stiers
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From: Ethics (COE) [<mailto:ethics@miamidade.gov>]
Sent: Thursday, January 4, 2018 9:55 AM
To: Fernandez-Stiers, Melissa (Assoc-Mia) <melissa.fernandez-stiers@akerman.com>
Cc: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>
Subject: RE: Request for Opinion re: Interpretation of Two-Year-Rule

Ms. Fernandez-Stiers:

Thank you for your request for an opinion regarding the two-year rule. This opinion request has been assigned to COE Staff Attorney Martha Perez for follow-up and response. Ms. Perez will be in touch with you regarding the request.

Regards,
Joe Centorino

Joseph M. Centorino

Executive Director and General Counsel
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From: melissa.fernandez-stiers@akerman.com [<mailto:melissa.fernandez-stiers@akerman.com>]
Sent: Wednesday, January 03, 2018 4:11 PM
To: Ethics (COE) <ethics@miamidade.gov>
Subject: Request for Opinion re: Interpretation of Two-Year-Rule

Dear Sir/Madam:

I was previously employed by the City of Miami as Chief of Staff for Commissioner Francis Suarez from April 1, 2014 – October 31, 2017. I commenced employment with Akerman LLP as an attorney on November 1, 2017. Akerman represents Friends of the Underline (“FOU”), a 501(C)(3) non-profit, on a pro bono basis before the City of Miami, and other municipalities and governmental entities, in matters pertaining to local government advocacy, land use and zoning. Given that FOU is a non-profit and Akerman’s representation of same is pro bono, kindly advise what lobbying activities I may, or may not engage in, on behalf of FOU with respect to the City of Miami.

Thank you,

Melissa Fernandez-Stiers

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