

## Sanchez, Rodzandra (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Friday, March 16, 2018 9:19 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Mary Waters, Member, Miami-Dade Community Council #14 (Sunshine Law/Jennings Rule, Exploitation)) INQ 18-62

INQ 18-62 Waters

(with addendum)

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I also discussed this issue separately with Assistant County Attorneys Eddie Kirtley and Dennis Kerbel. Both agreed that there is no prohibition in the County Ethics Code regarding a member of a Community Council appearing before a different board than the one the member sits on. However, they also pointed to the provisions of Sections 20-41(C) and 33-307.1(B) of the County Code, neither of which is included in the Ethics Ordinance, and both of which provide that, "No member [of a Community Council/Community Zoning Appeals Board] shall appear at any public hearings or meetings before the Board of County Commissioners or any other federal, state, or **local board** or tribunal, to advocate concerning any zoning application that was heard by, or that could reasonably be expected to be heard by, any Community Council." (emphasis added) and Section 33-307.1(C), which further provides that "[v]iolation of this section shall constitute grounds for removal[.]" Mr. Kerbel explained that the prohibitions contained in Sections 20-41(C) and 33-307.1(B), which are subject to interpretation by the County Attorney rather than the Ethics Commission, has not been definitively opined on concerning the meaning of "advocate." Although Mr. Kerbel is of the opinion that an exception to the prohibition against appearing before any local board could be made for a person who has legal standing to appear before a board regarding his or her own property interests, the County Attorney has taken the position, in view of the seriousness of the consequences for a violation, that Community Council members should not appear at such meetings, unless there is a definitive opinion otherwise or else a change in the ordinance. Ms. Waters, who, in any event, did not appear to have standing on the matter in question, was advised by Mr. Kirtley that, while she was permitted to attend the meeting of another Community Council, she should not speak for or against any zoning item at any such meeting. This was consistent with the manner in which the County Attorney's office has advised other Community Council members who have presented the same inquiry in the past.

### *Joseph M. Centorino*

Executive Director and General Counsel  
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  
[ethics.miamidade.gov](http://ethics.miamidade.gov)



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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, March 08, 2018 1:51 PM  
**To:** Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>  
**Subject:** Mary Waters, Member, Miami-Dade Community Council #14 (Sunshine Law/Jennings Rule, Exploitation)) INQ 18-62

INQ 18-62 Waters

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**From:** Centorino, Joseph (COE)  
**Sent:** Thursday, March 08, 2018 10:02 AM  
**To:** Turay, Radia (COE) <[Radia.Turay@miamidade.gov](mailto:Radia.Turay@miamidade.gov)>; Sanchez, Gerald (CAO) <[Gerald.Sanchez@miamidade.gov](mailto:Gerald.Sanchez@miamidade.gov)>; Perez, Martha D. (COE) <[Martha.Perez2@miamidade.gov](mailto:Martha.Perez2@miamidade.gov)>; Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>; Kirtley, Eddie (CAO) <[Eddie.Kirtley@miamidade.gov](mailto:Eddie.Kirtley@miamidade.gov)>  
**Subject:** INQ 18-62 Mary Waters, Member, Miami-Dade Community Council #14 (Sunshine Law/Jennings Rule, Exploitation))

Mary Waters, a member of Community Council #14, inquired regarding whether she could attend and possibly speak at a meeting of Community Council #15, regarding an application pending before CC #15 in which she has an interest, due to the fact that she resides in the general area that would be affected by the issue.

I advised Ms. Waters that, as an elected Community Council members, she does not lose her right under the Sunshine Law (Section 286.011, Florida Statutes) to attend a public meeting or to petition a government agency regarding a matter of personal interest or concern. However, I cautioned her that she should not, in any way use her official position to influence a decision that would personally affect her, in order to avoid any possible Exploitation of Official Position under Section 2-11.1(g) of the Ethics Code. Therefore, I advised her not to identify herself as a Community Council member either on the sign-in sheet for the meeting or, if she should decide to speak at the meeting, during any remarks she may make before the Council. I suggested that she simply identify herself as a citizen and resident of the area. I also advised her that, in the event that a matter coming up at the meeting would also come up at her Community Council (that she said was unlikely), she should avoid being present during the discussion of such an issue so as not to create an *ex parte* communication triggering a *Jennings* Rule issue. Finally, I advised her that, in the event that another member of her own Community Council should be in attendance at the meeting, she should avoid any communication with that member that might involve an issue foreseeably coming before her own board.

***Joseph M. Centorino***

Executive Director and General Counsel  
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  
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