

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, March 14, 2018 4:18 PM
To: Sanchez, Rodzandra (COE)
Subject: James McCall, Principal Planner, Public Housing and Community Development Department (Employment conflicts of interest) INQ 18-67

INQ 18-67 McCall

From: Turay, Radia (COE)
Sent: Wednesday, March 14, 2018 4:07 PM
To: McCall, James A (PHCD) <James.McCall@miamidade.gov>; Fiano, Theresa (PHCD) <Theresa.Fiano@miamidade.gov>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Subject: INQ 18-67, James McCall, Principal Planner, PHCD (j)

Dear Mr. McCall,

You inquire whether you, a County employee, may serve on the Affordable Housing Trust Fund Board (AHTFB).

Background

- You work as a Principal Planner at Miami-Dade County Department of Public Housing and Community Development (PHCD).
- Your responsibilities at PHCD include writing Requests for Application for Documentary Stamp Surtax Funds, Community Development Block Grant Funds, Home Investment Partnerships Program funds, and State Housing Initiatives Partnership funds. You also conduct environmental reviews and/or selection committee evaluation reviews of housing and community development projects/activities proposed for federal funding.
- You were nominated as a potential member of the Affordable Housing Trust Fund Board (AHTFB).
- The Affordable Housing Trust Fund (AHTF) was established by the Miami-Dade Board of County Commissioners on February 6, 2007 through Ordinance 07-15, pursuant to Section 17-130 of the Miami-Dade County Code.
- The AHFT serves as a permanent, renewable, source of revenue to meet, in part, the housing needs of the residents of Miami-Dade County. The objective of the AHTF is to foster a housing supply accessible to a range of family incomes in developments assisted by the Trust Fund and to disperse affordable housing units throughout the County, in accordance with objectives, goals and policies set within the housing elements of the Community Development Master Plan.
- The AHTFB is made up of thirteen (13) Trustees who have knowledge of and demonstrable service to the affordable housing community.
- PHCD has a seat on the AHTFB. You were nominated to fill the PHCD seat on the AHFTB. As a member/trustee on the Board, you would vote on items related to policy and/or expenditures of funds in the AHTF.

- It is our understanding from our discussions with you and your supervisor, Ms. Fiano, that the funding sources for which you typically provide support in your daily work at the County are not part of the AHTF.
- Further, you have indicated that the work that you do in your County employment is not related to PHCD's real estate leasing of county owned properties, part of the income from which is deposited in the AHTF.

Analysis

While there is no prohibition against an appointment of a County employee to a County board, there are several factors that would need to be considered with the employee prior to such appointment. See INQ 16-03. The following is a non-exclusive list of some of the Ethics Code provisions likely to be triggered when County employees are appointed to serve on County Boards:

- 1) Sec. 2-11.1(j) prohibits County employees from engaging in certain activities that would impair their independence of judgment in the performance of their public duties to the County. (For example, a County employee should avoid dealing in his or her County position with any issue that could foreseeably come before him or her as a member of the board and vice versa). See INQ 16-03.
- 2) Section 2-11.1(g) prohibits board members from using their official position to secure special privileges or exemptions for themselves or others. (For example, a County employee may be required to attend board meetings during working hours which would require a determination by his or her supervisor that such activity is permissible). See INQ 16-03.
- 3) Section (v) prohibits board members from voting on matters involving entities in which they have any of the following relationships - officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor or creditor - if they would be directly affected by the vote.
- 4) Sec. 2-11.1(h) prohibits board members from disclosing confidential information obtained through their official positions with the County (both as employee and board member) or use such information, directly or indirectly, for personal gain or benefit.
- 5) Sec. 2-11.1(i) requires board members to file financial disclosure forms.

Based on the information you and your supervisor provided, it does not appear that a conflict of interest exists between your County employment and your proposed trustee position on the AHTFB because in your County employment do not work on issues that could foreseeably come before you as a member of the AHTFB due to the fact that you do not work in PHCD's real estate leasing of county properties section (which mainly interacts with the AHTFB), and the funding sources for which you typically provide support in your daily work at the County are not part of the AHTF, which is administered by the AHTFB.

We are attaching COE memorandum title "ethical issues for potential Advisory Board Members" for your review as it includes additional information on this topic.

Further, be aware that other provisions in State law also apply to board members, i.e., The Sunshine Law at Sec. 286.011, Fla. Stat., prohibits board members from discussing board business except at a duly noticed public meeting where the public is invited and minutes are taken; and, the Code of Ethics for Public Officers & Employees at Fla. Stat. Chapter 112. For additional information on State law, you may contact the Florida Ethics Commission at www.ethics.state.fl.us.

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

Sincerely,

RADIA TURAY

Staff Attorney

Miami-Dade Commission on Ethics and Public Trust

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From: McCall, James A (PHCD)

Sent: Monday, March 12, 2018 12:15 PM

To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>

Subject: James McCall ethics opinion - further information

Good afternoon, Ms. Turay:

Thank you for speaking with Ms. Fiaño and I this morning. After we spoke, I am now of the opinion that my job responsibilities/typical work products are not related to the items that I may be asked to vote on as a potential member of the Affordable Housing Trust Fund Board (AHTFB).

Please see 3 attached documents, which provide information about the AHTFB:

- 2007 Ordinance creating AHTFB
 - (see handwritten page 7) State Housing Initiatives Partnership (SHIP) and Local Housing Assistance Program (LHAP) funds shall not be deposited into the Trust
 - (handwritten page 7-8) the original Ordinance does not provide for a member from the Department of Public Housing and Community Development (PHCD)
- 2016 Ordinance revising the AHTFB membership
 - (handwritten page 6) one member of the AHTFB to be designated by PHCD's Director and may be a Miami-Dade County employee
- 2017 Resolution stating which funding sources can/cannot be deposited into the Trust (adopted as Ordinance 18-04)
 - (2017 Resolution, handwritten page 6, Section 2) – deposit percentage of rents received from leasing of county-owned properties into the Trust Fund
 - (Ordinance 18-4 Exemptions, handwritten page 8) (4) any affordable housing development funded through the County's affordable housing funding programs, such as Documentary Stamps Surtax, State Housing Initiatives Partnership, HOME Investments Partnerships, Community Development Block Grant

It is my understanding that the funding sources I typically provide support for in my daily work (CDBG, HOME, SHIP, Documentary Stamp Surtax), are not allowed to be deposited into the AH Trust Fund. Also, my job duties are not related with PHCD's real estate leasing of county owned properties (that function is handled by real estate professionals in PHCD's Development Division).

For your consideration. Thank you!

Sincerely,

James A. McCall, CMS
Principal Planner
Miami-Dade County

Department of Public Housing and Community Development
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