

## Sanchez, Rodzandra (COE)

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**From:** Turay, Radia (COE)  
**Sent:** Tuesday, July 23, 2019 5:04 PM  
**To:** Sanchez, Rodzandra (COE)  
**Cc:** Perez, Martha D. (COE); Diaz-Greco, Gilma M. (COE)  
**Subject:** FW: 19-76, Carla Ascencio-Savola, Board Member, Miami-Dade County Planning Advisory Board (Citizens' Bill of Rights)  
**Attachments:** INQ 19-76 Dorsey (re Savola).pdf

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**From:** Turay, Radia (COE)  
**Sent:** Tuesday, July 23, 2019 5:03 PM  
**To:** Dorsey, Mark (RER) <Stephen.Dorsey@miamidade.gov>; Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>  
**Cc:** 'savolac@yahoo.com' <savolac@yahoo.com>  
**Subject:** 19-26, Carla Ascencio-Savola, Board Member, Miami-Dade County Planning Advisory Board (Citizens' Bill of Rights)

Hello,

Thank-you for contacting the Miami-Dade Commission on Ethics and Public Trust, seeking our guidance in connection with this matter. Please find our opinion regarding same attached.

Thanks,

### **RADIA TURAY**

Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820  
Miami, FL 33130  
Tel: (305) 350-0601  
Fax: (305) 579-0273  
Ethics.miamidade.gov

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**From:** Dorsey, Mark (RER)  
**Sent:** Tuesday, July 9, 2019 4:20 PM  
**To:** Turay, Radia (COE) <Radia.Turay@miamidade.gov>  
**Cc:** Ethics (COE) <ethics@miamidade.gov>; 'savolac@yahoo.com' <savolac@yahoo.com>  
**Subject:** Advisory Board members ability to discuss

Ms. Turay,

As discussed, I received a call earlier today from a current Planning Advisory Board (PAB) member who asked if they were able to answer neighbors' questions regarding a land use application that had previously been heard by the PAB. The application has since been heard, and voted on, by the BCC, and the applicant is now in the process of filing a zoning change on the property. Since the Community Councils also serve as the Zoning Advisory Board, or CZAB, the rezoning request will not be heard or voted on by the PAB again; the CZAB vote is separate from the PAB vote. Therefore, is the

PAB member able to freely discuss the application and its rezoning with the community, without fear of violating the Sunshine and/or ethical laws? Thank you in advance for your advice.

Sincerely,

*Mark*

**Stephen M. Dorsey, AICP**, Principal Planner  
**Department of Regulatory and Economic Resources**  
**Planning Division, Metropolitan Planning Section**  
111 NW 1st Street, 12<sup>th</sup> Floor Miami, Florida 33128-1927  
Direct Phone: 305-375-2827 Fax: 305-375-2560  
Email: [stephen.dorsey@miamidade.gov](mailto:stephen.dorsey@miamidade.gov)  
[www.miamidade.gov/planning](http://www.miamidade.gov/planning)

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## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130

Phone: (305) 579-2594 · Facsimile: (305) 579-0273

Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

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### MEMORANDUM

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**TO:** Stephen M. Dorsey, AICP,  
Principal Planner, Miami-Dade Department of Regulatory and Economic  
Resources

Carla Ascencio-Savola,  
Board Member, Miami-Dade County Planning Advisory Board

**FROM:** Radia Turay, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 19-76 [Miami-Dade Citizens' Bill of Rights, Section (A)(2): *Truth  
in Government* ]

**DATE:** July 23, 2019

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

Facts:

Carla Ascencio-Savola is a member of the Miami-Dade Planning Advisory Board (PAB).

The PAB is the County's designated Local Planning Agency and it is the main advisory board to the Board of County Commissioners (BCC) on matters related to planning and annexations/incorporations.

The PAB heard and voted on a land use application. The application has since been reviewed and voted on by the BCC and the applicant is now in the process of filing a zoning change on the property.

Based on information received from Mr. S. Mark Dorsey, the principal planner for Miami-Dade Department of Regulatory and Economic Resources (RER), it is our understanding that this issue will not be foreseeably heard or voted on by the PAB.

Ms. Savola has asked whether she may answer questions posed by her neighbors and some attorneys, none of whom sit on the PAB, regarding the land use application that was previously heard by the PAB.

Discussion:

This question falls within the Florida Sunshine Law at Fla. Stat. Sec. 286.011. The County Ethics Commission is not empowered to interpret or enforce the Sunshine Law. The Attorney General of the State of Florida provides opinions to public officers regarding the interpretation and application of Florida's Sunshine Law and certain knowing and willful violations of the law are prosecutable by the State Attorney's Office.

With that caveat and by way of general information, the Sunshine Law, Section 286.011, Florida Statutes, applies to any gathering of the members [of a public board] where the members deal with some matter on which *foreseeable* action will be taken by the board." *City of Miami Beach v. Berns*, 245 So. 2d 38, 40 (Fla. 1971). The Sunshine Law does not apply to discussions between individuals who do not serve on the same public board, regarding matters that have already been decided by a public board and on which no "foreseeable" action will be taken by the public board in the future. *See* INQ 18-176 and INQ 18-100.

However, the Ethics Commission interprets and enforces the Miami-Dade Citizens' Bill of Rights. To that end, the Ethics Commission has suggested that in order to avoid possible violations of subsection (A)(2) of the Citizens' Bill of Rights, *Truth in Government* provision, when appearing before another board or in this case, non-governmental entities or private individuals, County "officials should attempt to make it clear whether they are speaking as an individual public official, or whether they are speaking on behalf of the public board they sit on." *See* INQ 18-176 and INQ 18-100; and K 14-100 (Elected officials, should take the very simple step of prefacing their personal remarks by stating something along the lines of "today I am speaking for myself and not for the entire board.")

Opinion: Consequently, while it may be permissible for you, under the Citizens' Bill of Rights, to engage in private discussions with private individuals who do not serve on the PAB, relating to past PAB decisions where the PAB's work has been completed and there is no foreseeable action on that particular land use application, you should make it clear that you are speaking as an individual citizen, and not speaking on behalf of the public board you sit on, unless your public board has specifically designated to you the authority to speak for it on a particular issue.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.