

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, August 01, 2019 11:40 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: INQ 19-78
Attachments: INQ 19-78.docx

INQ 19-78 Infante

From: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>
Sent: Wednesday, July 31, 2019 2:58 PM
To: Rene Infante. Ext 205 <redlandmarketvillageinc@yahoo.com>
Cc: Arrojo, Jose (COE) <Jose.Arrojo@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: INQ 19-78

Dear Mr. Infante,

Thank you for contacting the Miami-Dade County Commission on Ethics & Public Trust and requesting our guidance. Attached is INQ 19-78 addressing your question. Please do not hesitate to contact us if you have any questions or if we may be of further assistance.

Cordially,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
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MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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Mr. José René Infante
Redland Marketing Village, Inc.
via email: redlandmarketvillageinc@yahoo.com

July 31, 2019

Re: INQ 19-78

Dear Mr. Infante,

It was a pleasure speaking with you this week. Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding your limitations on doing business with the County through your for-profit company.

The issue presented to us is whether you, while sitting as a member of the Naranja CRA may enter into an agreement with the County to develop a “food hall” on property you own which is located in the Naranja CRA district.¹

You are an entrepreneur in Miami-Dade County. You serve in the Value Adjustment Board and the Naranja CRA. You have been a board member of the Naranja CRA since 2002. While the County Ethics Code jurisdiction does not extend to the VAB², the Naranja CRA board members are under the jurisdiction of Section 2-11.1 of the Code’s Conflict of Interest and Code of Ethics Ordinance (County Ethics Code). *See* Resolution R 187-16

The Naranja CRA was established in 2002 by the Board of County Commissioners (BCC), to address slum and blight through the redevelopment initiatives and incentive economic development. In 2018, the BCC approved a redevelopment plan to include an expanded area into the CRA’s boundaries, making it the largest CRA in the County: north SW 232 St. from the Urban Development Boundary (UDB) to 122 Ave.; west by the UDB; on the south by 296 St.; and, on the east by the Florida Turnpike following 296 St. to SW 127 Ave. to SW 248 St. to SW 122 Ave.³

¹ The transaction is partially funded through CDBG Program funds already awarded to your business, Redland Marketing Village, Inc.

² *See* INQ 17-87

³ Naranja CRA Annual Report, October 2017-September 2018

Your property was originally not within the area covered by the CRA but has since been annexed. You applied and were awarded CDBG funds some years ago to make improvements to the area through redevelopment and other economic incentives.⁴ The funds have been held up due to unforeseen circumstances affecting the market in the area. You are now able to use the funds and enter into a contract with the County, through your for-profit corporation, Redland Market Village, Inc. (RMV), to create a “food hall” on your property located in the Naranja CRA area. This business will create jobs in this diverse area of the district. Your partner in this venture is NANA.⁵ You have advised that neither RMV nor NANA have requested additional funds/grants from Naranja CRA for the “food hall” project.⁶ Lastly, the Naranja CRA does not oversee, regulate, administer, manage, set policy or make quasi-judicial decisions regarding the “food hall” project (or the CDBG funding already awarded to your business).

Sections 2-11.1(c) and (d) of the County Ethics Code address limitations and prohibitions on board members doing business with the County. Specifically, Section 2-11.1(c)(3) provides that a board member may enter into a contract, individually or through a firm, corporation, partnership or business entity in which the board member or his immediate family has a controlling financial interest, as long as the board member does not contract with a County department or agency which is subject of being regulated, overseen, managed, engaged in policy-setting or quasi-judicial authority of the member’s board/agency.

Consequently, since the Naranja CRA is not involved with any aspect of the agreement between RMV, NANA and the County, RMV may enter into a contract with the County to develop a “food hall” project in the Naranja CRA district with the following limitations found in the County Ethics Code:⁷ (RQO 18-03)

⁴ The County’s Public Housing and Community Development Department (PHCD) is tasked with the administration of the Community Development Block Grant (CDBG) program. These funds are awarded from the U.S. Department of Housing and Urban Development (HUD). In general, these funds are designed to build communities through economic development, including providing an increase in public services and initiatives that generate jobs. See <https://www.miamidade.gov/housing/community-development.asp>

⁵ State of Florida corporation records reveal that NANA Investment Group, LLC, is a for-profit corporation whose registered agent is Leroy Jones. NANA has received CDBG funds in the past (2012/2013) under economic development incentives.

⁶ The Naranja CRA provides housing and commercial redevelopment grants. Pursuant to the CRA’s Annual Report 2017-2018, the CRA has entered into a Memorandum of Understanding with NANA, creating a commercial grant program to assist existing business structures in the area. We assume that any previously awarded Naranja CRA funds will not be used in the “food hall” project.

⁷ Although this inquiry applies to RMV, the limitations imposed by the County Ethics Code may also apply to RMV’s business partner, NANA.

Section 2-11.1(m)(2) prohibits quasi-judicial, *autonomous* and advisory personnel from appearing before the County board or agency on which the member serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any “license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person.” Therefore, you may not appear before the Naranja CRA to make a presentation or apply for any CRA funding on behalf of RMV or NANA. (K 18-47)

Section 2-11.1(v) covers potential conflicts of interest for members of County advisory or quasi-judicial boards.⁸ Under this section, for a board member to have a voting conflict, that member would have to be directly affected by the vote, and have a special relationship, such as *officer*, director, *partner*, with the entity coming before the agency. Consequently, while you are the president of RMV and the partner of NANA in this venture, a voting conflict would occur for you at the Naranja CRA if you were to participate or vote on a matter coming before the CRA concerning your business or NANA’s organization. (RQO 07-39; INQ 17-69)

Section 2-11.1(n) prohibits a board member from *participating in any official action*, as a member of the Naranja CRA, directly or indirectly, affecting a business in which you or a member of your immediate family has a financial interest.

Section 2-11.1(o) prohibits you from *acquiring a financial interest* in a project, business entity or property at a time when you believe or have reason to believe that said financial interest will be directly affected by your official actions or the official actions of the Naranja CRA.

While you currently have no conflicts to make general recommendations about the broad, overall vision for the Naranja CRA district, you may encounter future conflicts if, for example, you receive a financial benefit or respond to a bid on a project resulting from recommendations made by your board/CRA. Should that be the case, please contact our office to obtain an ethics opinion. (INQ 13-117)

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.

⁸ The COE has generally applied Section 2-11.1(v) to autonomous boards. (INQ 17-69)

