

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, February 05, 2019 4:20 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: INQ 19-12 , Mariana Boldu, City of Miami Sea Level Rise Committee Board Member (Prohibited Appearances/Representations, Section 2-11.1[m][2], County Ethics Code, Section 2-612 (a) , City of Miami Code)
Attachments: INQ SLR.docx

INQ 19-12 Boldu

From: Perez, Martha D. (COE)
Sent: Tuesday, February 05, 2019 4:19 PM
To: mariana@curtisrogers.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 19-12 , Mariana Boldu, City of Miami Sea Level Rise Committee Board Member (Prohibited Appearances/Representations, Section 2-11.1[m][2], County Ethics Code, Section 2-612 (a) , City of Miami Code)

Dear Ms. Boldu,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance. Attached is INQ 19-____ addressing your questions. Do not hesitate to contact me if you need further assistance.

Best regards,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler St. Suite 820
Miami, FL 33130
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MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 Miami, Florida 33130

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MEMORANDUM

TO: Mariana Boldu
Board Member, City of Miami Sea Level Rise Committee

FROM: Martha D. Perez
Staff Attorney

SUBJECT: INQ 19- ____ (§2-11.1(m)(2), Appearances Prohibited)

DATE: February 4, 2019

CC: All COE Legal Staff

Facts: You serve on the City of Miami's Sea Level Rise Committee (SLRC), an advisory board created to address the dangers of saltwater intrusion in the city. The SLRC is charged with, *inter alia*, identifying applicable resilient design standards and best practices for adaptation, mitigation, and other considerations related to sea level rise and its adverse impacts; and, recommending appropriate sea level rise projections to be used in city infrastructure projects and planning. You advise that the committee may also review projects for the City, including design projects and their impact on sea level rise issues.

You are also Director of Resilience Design at Curtis Rogers Design Studio (DCRD), a landscape architecture design firm. You do not have an ownership stake in the company. DCRD is considering submitting a proposal on RFQ 17-18-061 for professional design services for adaptive redesign of the Jose Marti Park. Although the SLRC does not regulate, oversee or manage these projects, if awarded the contract, you state that SLRC may review this project and make recommendations to the City Commission. You inquire whether you may participate or make presentations before the SLRC on behalf of your employer.

Discussion: Section 2-11.1(m)(2) of the Conflict of Interest and Code of Ethics Ordinance (County Ethics Code) and Section 2-612(a) of the City of Miami Code, prohibit a board member from appearing before the City board in which he or she serves, *either directly or through an associate*, and make a presentation on behalf of a third party. See RQO 07-39; INQ 17-254. This means you must not lobby or try to influence your board for the benefit of your employer. See INQ 13-224

The Ethics Commission has interpreted these prohibited appearances to include signing proposals or submitting documents or correspondence on behalf of the third party. See INQ 09-33; INQ 11-178

Section 2-11.1(m) (2) also prohibits a board member from receiving compensation, *directly or indirectly or in any form*, for any services rendered to the third party seeking a benefit from his or her board. See RQO 07-12; INQ 15-229. This means that you may not be compensated for design services on DCRD projects coming before your city board.

Your inquiry may also implicate other sections of the County Ethics Code. For example, Section 2-11.1(v) of the County Ethics Code prohibits a board member from voting on any matter where the member will be directly affected by the vote and has a prohibited relationship (i.e., officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor) with any corporation, firm, entity or person appearing before the member's board or committee.

A conflict exists where a member has an employment relationship with an entity that has an issue coming before his or her board *and* the member will be directly affected by the action of the board. See RQO 06-52. In this instance, there is a possibility that your interests will be enhanced by your participation and vote on a matter concerning DCRD.

Also, Section 2-11.1(g) of the County Ethics Code prohibits a board member from using his or her official position to secure special benefits, privileges or exemptions for herself or others.

Opinion: Consequently, while you may continue your service as board member of the SLRC, you may not appear before the SLRC or seek any benefit for yourself or on behalf of DCRD before the SLRC. This includes representing your employer as part of the design team in a project presented to the SLRC. Furthermore, you should recuse yourself from any participation or vote regarding any project connected to DCRD.

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. Questions regarding election practices should be addressed with the Florida Department of Elections.

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.

