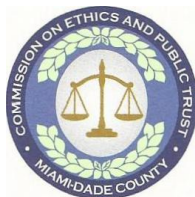


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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November 16, 2020

VIA US Mail and Electronic Mail

Liana Rivera
2101 SW 76 Avenue
Miami, FL 33155

Re: Ethics Inquiry Request, INQ – 2020-125, Section 2-11.1(s), County Ethics Code
(Lobbying)

Dear Ms. Rivera,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding lobbyist registration requirements in connection with your intent to represent yourself and two of your neighbors in your zoning application before the City of Miami.

We respond as follows:

Facts: You are a homeowner in the City of Miami and have completed a zoning application which is up for consideration by the City of Miami, Planning Department and Zoning Office. You have completed this application with your neighbors, two other homeowners.

Your neighbors have provided you with a power of attorney in order to represent them before the necessary advisory boards in a quasi-judicial hearing to advance your joint zoning application. You are not an attorney, nor will you be compensated or reimbursed for your appearance on their

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behalf. You will not be speaking privately with any Commissioners and/or advisory board members in furtherance of your joint application.

Issue: Whether you, as a homeowner, may represent yourself and two neighbors in your *joint* zoning application in a quasi-judicial hearing.

Analysis and Opinion:

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (hereinafter “County Ethics Code”), codified at Section 2-11.1, constitutes a minimum standard for municipal personnel, officials, agencies and entities. *See* Section 2-11.1(a), County Ethics Code. In other words, the County Ethics Code supersedes all similar but less stringent provisions in municipal ordinances pertaining to conflict of interest and ethics standards.

Nonetheless, under both the County Ethics Code, Subsection 2-11.1(s)(3)(b), as well as the City of Miami Code, Section 2-653, a person appearing before the City Commission in his or her individual capacity for the purpose of self-representation, and without compensation or reimbursement from another person or entity, to express support of or opposition to an item, is not required to register as a lobbyist. *See* INQ 17-27. The Ethics Commission has continuously opined that current and former employees, non-profit members, attorneys, and community members speaking in their individual capacity without compensation or reimbursement from others are exempt from registering as lobbyists. *See* INQ 14-199; INQ 16-180; INQ 16-255

In this instance, you intend to speak behalf of yourself and your neighbors before the City of Miami for the purpose of advancing your *joint* zoning application without compensation or reimbursement. As you are speaking in your individual capacity, the fact that you and your neighbors are aligned in favor of your application does not negate the fact that you are still speaking in an individual capacity even if it is to the mutual benefit of two of your neighbors. Therefore, you are not required to register a lobbyist.

Furthermore, giving testimony or appearing on behalf of private clients in a publicly notice quasi-judicial proceeding does not constitute lobbying. *See* RQO 10-19, RQO 11-26. A quasi-judicial matter is not concluded until the time for resolving the disputes stemming from the quasi-judicial hearing has expired. *See* RQO 13-04. As you are appearing at a quasi-judicial proceeding on behalf of yourself and your neighbors in furtherance of your joint zoning application, your actions are not considered lobbying.

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.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. We hope that this opinion is of assistance and we remain available to discuss any

matters addressed in this letter, if necessary, at your convenience. If the facts associated with your inquiry change, please contact us for additional guidance.

Sincerely,



Loressa M. Felix, Staff Attorney

cc: All Commission on Ethics Attorneys

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.