



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Vivianne Bohorques, COO
The Children's Trust

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 20-52

DATE: June 3, 2020

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible voting conflicts of interest by The Children's Trust board members on Resolution 2020-D.

Background:

The Children's Trust Board (TCT) is an independent special district established by Miami-Dade County in Art. CIII, Sections 2-1521 through 2-1531 of the Miami-Dade County Code (TCT ordinance).

You have advised that Resolution of TCT 2020-D, entitled, "Authorization to negotiate and execute a funder collaboration contract renewal with Miami Homes For All, Inc., to support partnerships to end youth homelessness in Miami-Dade County, in an amount not to exceed \$100,000.00 for a term of 12 months commencing, October 1, 2020, and ending September 30, 2021," will be considered at an upcoming meeting of TCT board.

Miami Homes For All, Inc. (MHFA) formerly known as the Miami Coalition for the Homeless, was created to promote community efforts to help prevent and end homelessness in South Florida by establishing alliances with agencies and organizations. It coordinates system partners to identify and track homeless youth and provide immediate access to appropriate programs and services, including housing, education, healthcare, employment, mentorship/peer groups, and other supportive services.

MHFA is the primary county-wide support agency for the Helping Our Miami-Dade Youth Collective (HOMY Collective), a multi-sector effort to create a locally designed, comprehensive system of care to prevent and address youth homelessness in Miami-Dade County.

This Resolution seeks, inter alia, funding for a collaborative contract with MHFA to provide operational support and structure for the partnership of approximately 100 agencies working together to address youth homelessness through the HOMY Collective.

The Children's Trust invests \$100,000.00, while The Homeless Trust invests \$360,000.00 in this funder collaborative investment, totaling \$460,000.00. The funds will be pooled with nearly \$3.4 million to support the work of the HOMY Collective.

You inquire on behalf of several TCT board members regarding whether they would have a voting conflict of interest under Section 2-11.1(d) of the County Ethics Code or TCT Conflict of Interest and Code of Ethics Policy/Bylaws, in voting or otherwise participating in Resolution 2020-D. You make this inquiry in light of the partnership formed between the members' entities (including TCT) and Miami Homes For All, Inc. (MHFA):

1) Barbara Jordan (hereinafter Commissioner Jordan) is the Miami-Dade County Commissioner for District 1. The Homeless Trust is a funding partner in the program. The Homeless Trust does not receive funding through this Resolution.

2) Nelson Hincapie is the Miami-Dade County Mayor's appointee to The Children's Trust Board. The Homeless Trust is a funding partner in the program. The Homeless Trust does not receive funding through this Resolution.

3) Magaly Abrahante is an employee of Miami-Dade County Public Schools (M-DCPS), the largest school district in Florida with over 40,000 employees. M-DCPS' Project Upstart serves as a referral partner in the program. M-DCPS is not receiving funding through this Resolution.

4) Tiombe Bisa Kendrick-Dunn is employed by M-DCPS as a school psychologist and is the Chairperson for Professional Growth & Development at M-DCPS. M-DCPS' Project Upstart serves as a referral partner in the program. M-DCPS is not receiving funding through this Resolution.

5) Richard Dunn is employed by MDCPS.¹ He is the Senior Pastor at the First Community Baptist Church. (Based on the information provided, the Church is not receiving funding through this Resolution).

¹ You have indicated in your request for opinion email that Mr. Dunn is employed by the MDCPS. We have not been able to confirm this information. Pastor Dunn is the Sr. Pastor at Faith Community Baptist

6) Dorothy Bendross-Mindingall is a M-DCPS board member. M-DCPS' Project Upstart serves as a referral partner in the program. M-DCPS is not receiving funding through this resolution.

Discussion:

This office may consider and opine on whether a TCT board member has a conflict of interest, pursuant to the County Ethics Code, affecting his or her vote or participation in a funding allocation from TCT. See RQO 19-06

TCT's Conflict of Interest and Code of Ethics Policy states, inter alia, that a board member shall not vote on any matter presented to the CT Board if the member will receive a direct financial benefit from the board action. TCT's Bylaws also provides that, "Board members will act in such a manner to avoid the appearance of impropriety. No member shall serve as a staff member of any agency when The Children's Trust provides more than fifty (50) percent of the agency's budget, and The Children's Trust's funds may pay no portion of a Board member's salary".

There are no facts indicating that any of the board members will be receiving a direct financial benefit from the board action, therefore, a conflict analysis under TCT rules is not applicable.

The Ethics Code at Section 2-11.1(d), establishes a voting conflict if:

- 1) The board member has an enumerated relationship (officer, director, partner, of counsel, consultant, employee, fiduciary, etc.) with any entity affected by the vote;
- 2) The board member has an enumerated relationship with an entity affected and the matter would affect him or her in a manner distinct in which it would affect the public generally; and,
- 3) The board member might, directly or indirectly, profit or be enhanced by the board action. *See* RQO15-04

I) The Ethics Commission has opined that an automatic voting conflict arises under Section (d) of the Ethics Code, when the board member has a prohibited relationship with the entity affected by the Resolution:

Unlike the usual factual pattern where a board member is employed or serves in the entity seeking the funding, in this instance, TCT board members are either employees, officers

Church. His resumé, which was included in the nominations for TCT members submitted to the BCC on June 4, 2019, does not show current employment with MDCPS.

appointees, or members of governmental entities and/or non-profit entities which, along with TCT, form some form of partnership with MHFA-the recipient and beneficiary of the funds.

Although the board members have enumerated relationships with MFHA's government partners which may benefit from the renewal of this funder collaboration contract, there is no unique impact which would create a voting conflict for those members who are employees or officers of government and non-profit entities. *See Memorandum to RQO 19-04.* Likewise, there is no funding being provided to the non-profit entities of which several members hold official positions.

It is noted that, none of the board members work for MHFA and none serve on MHFA's board of directors.

II) None of the board members referenced herein would be affected by this vote in a matter distinct from the public generally:

In this partnership, TCT, M-DCPS and Miami-Dade County will benefit in the funding allocation by way of their contribution to the overall purpose of MFHA- to support partnerships to end youth homelessness in Miami-Dade County.

III) Finally, there are no facts indicating that any of the board members referenced herein might profit or be enhanced by the board action authorizing the negotiation and execution of a funder collaboration contract renewal with MHFA:

TCT is not providing direct funding to any of the members' governmental or non-profit entities; rather, the funding is allocated to support a partnership amongst agencies with a common objective and any benefit or enhancement may be attributed to the collective, not the individual board members. Any possible indirect benefit to any of the board members, as employees or members of MHFA's partners, is too remote to create a voting conflict.

To hold that the board members, by virtue of their employment or membership with partnering entities of MHFA might profit or be enhanced, directly or indirectly, by the renewal of a funder collaboration contract would result in the dissolution of MHFA and the HOMY Collective.

Opinion:

Under the details provided concerning this Resolution of TCT authorizing the renewal of the funder collaboration contract with MHFA, it does not appear that any of the board members referenced herein will profit or be enhanced by this vote nor will a special benefit come to any of them in their capacities as employees, appointees, officers or members of

governmental/ non-profit entities which partner with the vendor for the provision of services under a partnership relationship.

Also, based on the purpose and goal of MHFA, and the participation objectives of the non-profit organization and governmental entities involved, the members' voting and participation would not raise the perception of an appearance of impropriety in this Resolution.

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.