



## 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)

---

### MEMORANDUM

---

TO: Joseph Litowich  
Member, North Miami Beach Planning & Zoning Board

FROM: Martha D. Perez, General Counsel  
Commission on Ethics & Public Trust

SUBJECT: INQ 20-85 General Board Member's Conflicts of Interest

DATE: August 6, 2020

CC: COE Staff

---

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance concerning a possible conflict of interest that may arise in connection with your service as member of the North Miami Beach Planning & Zoning Board (NMB-PZAB).

#### Background

You have provided this office with the following information:

You have served on the NMB-PZAB for at least twelve years and are a current member of the board. You are the owner of Affordable Contractors, Inc. (AC), a for-profit roofing contractor company.

In 2014, your company re-roofed a property which was owned at the time by Mrs. Toby Stolberg (Stolberg). Stolberg sold the property in 2015 to Mr. and Mrs. Robovsky (Robovskys). About a year ago, the Robovskys appeared before the NMB-PZAB for a variance unrelated to the property's roof (backyard swimming pool). You voted for the approval of the variance. At the time, you did not have any discussions "publicly or privately with the Robovskys about any future work on their property."

Your company has been recently contacted by the Robovskys for a re-roofing job. The Robovskys do not have any matter pending before the NMB-PZAB.

#### Analysis

This office may consider and opine on whether a member of the NMB-PZAB has a conflict of interest affecting his business relationship with a prospective client. Your inquiry prompts notice

of several sections of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code):

Section 2-11.1(v), *Voting conflicts*, provides that, a board member may not participate and/or vote on matters where he will be directly affected by the vote and has the following relationships: “officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary” or “stockholder, bondholder, debtor or creditor” of the person or entity appearing before his board.

Based on the facts, there is no voting/participation concern at this time since your prospective client does not have any matter before your board. However, in the event a situation arises where your personal or financial interests may be affected by the board’s action and your relationship with an applicant/client falls into one of the prohibited relationships described herein, we would recommend you seek an opinion from this office. INQ 16-219

Section 2-11.1(g), *Exploitation of official position*, prohibits a board member from using his board position to secure special privileges or exemptions for himself, his company or others (clients).

Section 2-11.1(m)(2), *Prohibited appearances*, prohibits a board member, either directly or through an associate, from appearing before the board on which he serves to make a presentation or seek a benefit (i.e., approval of an application/variance) on behalf of a third party/client; nor may he receive compensation for services rendered to the third party as a result of the *particular* benefit sought. This means that you must not lobby or try to influence your board for your personal and/or financial benefit or the benefit of a third party.

Section 2-11.1(n), *Official actions where financial interests involved*, prohibits a board member from participating in any official action affecting a business in which he or any member of his immediate family has a financial interest. Therefore, you may not take any official action (i.e., vote) which may affect your company.

Section 2-11.1(h)- *Confidential information*, prohibits a board member from disclosing confidential information acquired by reason of his board position.

### Conclusion

Based on the information you have provided, it does not appear that you have a conflict prohibiting your future business transaction with the Robovskys. *See generally* RQO 07-39; INQ 03-76. This opinion is limited to the facts as you presented them to the COE 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.