



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North  
701 Northwest 1<sup>st</sup> Court · 8<sup>th</sup> Floor · Miami, Florida 33136  
Phone: (305) 579-2594 · Facsimile: (305) 579-0273  
Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

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### MEMORANDUM

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**TO:** Richard M. Gomez, Chair  
Westchester Community Council/Zoning Appeals Board (Area 10)

**FROM:** Loressa Felix, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2021-156, Community Council Conflict of Interest, Section 2-11.1(d),  
County Ethics Code

**DATE:** December 21, 2021

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest with your potential appointment to the Westchester Municipal Advisory Committee while simultaneously serving on the Westchester Community Council/Zoning Appeals Board.

Background:

You are a member of the Westchester Community Council/Zoning Appeals Board and you are considering appointment to the Municipal Advisory Committee for the potential incorporation of Westchester. You are inquiring as to any potential conflict of interest provisions that may prevent your dual board service.

Miami-Dade County Community Zoning Appeals Boards (CZABs) are established pursuant to Section 33-306 of the Miami-Dade County (MDC) Code.

The CZABs were created pursuant to the Home Rule Charter at Section 4.08, in order to facilitate the zoning powers granted to the Board of County Commissioners (BCC) and to hear, consider and review appeals from zoning regulations or decisions of an administrative official.

CZABs and Community Councils (CC) are one in the same when acting in their capacities to hear zoning applications. *See* Sections 33-306 of the MDC Code and Section 20-41(A) of the MDC Code (Community Councils shall perform the duties and responsibilities of Community Zoning

Appeals Boards as set forth in Section 33-306 of the Code of Miami-Dade County). *See* INQ 19-114 You are currently serving in Area 10 – Westchester Community Council.<sup>1</sup>

Municipal Advisory Committees (MACs), created by the Board of County Commissioners, study the feasibility of incorporating a specific area into a municipality. MACs are composed of elected or appointed members and give advice to the Board of County Commissioners regarding a proposed municipality's creation. The MAC board is made up of volunteers that live in the area appointed by its district commissioner. Miami-Dade County staff facilitates MAC meetings.

You would be appointed to the Westchester MAC by Commissioner Javier D. Souto.

Discussion:

Section 2-11.38 of the Miami-Dade County Code provides the following:

No person shall serve on more than two (2) County boards simultaneously, unless the Commission has by unanimous vote approved the appointment after being advised of all other County board(s) upon which the person sits, provided, however, **a person serving on any one of the following boards shall not serve on any other County board simultaneously except as provided by ordinance: Community Council; Community Zoning Appeals Board; Planning Advisory Board; Citizens' Independent Transportation Trust; Housing Finance Authority; Independent Review Panel; Industrial Development Authority; Health Facilities Authority; Educational Facilities Authority; Commission on Ethics and Public Trust; Environmental Quality Control Board; The Children's Trust; and the Public Health Trust.** Notwithstanding the foregoing, a person is prohibited from serving on a County board where such service would violate federal or state law, the Miami-Dade County Home Rule Charter or county ordinance.

As previously stated, CZABs and Community Councils (CCs) are one in the same when acting in their capacities to hear zoning applications. *See* Section 33-306 and Section 20-41(A), Miami Dade County Code (Community Councils shall perform the duties and responsibilities of Community Zoning Appeals Boards as set forth in Section 33-306 of the Code of Miami-Dade County).<sup>2</sup>

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<sup>1</sup> *See* <https://www.miamidade.gov/zoning/community-council-10.asp>

<sup>2</sup> *See also*, Section 33-307: The term of office of the members of each of the Community Zoning Appeals Boards shall be the terms established as members of Community Councils.

As the Miami-Dade County Code prohibits County board members from simultaneously serving on any other County board while serving on the Community Council or Community Zoning Appeals Board, you would be prohibited from accepting appointment to the Westchester MAC.<sup>3</sup>

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. If the facts associated with your inquiry change, please contact us for additional guidance.

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.

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<sup>3</sup> The ordinance creating and establishing the Westchester MAC is pending vote before the Board of County Commissioners. However, the current language of the ordinance does not provide for an exception to Section 2-11.38 of the Miami-Dade County Code. *See* <https://www.miamidade.gov/govaction/matter.asp?matter=212743&file=true&fileAnalysis=false&yearFolder=Y2021>.