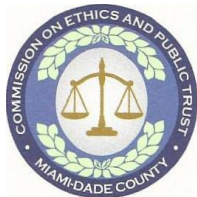


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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July 23, 2021

Mr. Jeronimo Pizarro
Member, Ecology Board, Village of Biscayne Park
Sent via email: jeropizarro@gmail.com

RE: INQ 2021-110, Village of Biscayne Park Ecology Board Member Conflict of Interest, Sections 2-11.1(v), (m), (g), (h), County Ethics Code

Dear Mr. Pizarro,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance in connection with your appointment to the Ecology Board in the Village of Biscayne Park.

Background:

You are the owner of Carbon Recall East Miami, a residential and commercial renewable energy franchise, and you are concerned about possible conflicts with your recent Village Ecology Board position and your private company.

Ecology Board: This Board was inactive for several years. The Board was reinstated this year ¹, and you were appointed to serve, conceivably due to your educational, technical and/or professional experience in environmental conservation. ² The Board is an advisory board which has been delegated the following responsibilities: target environmental goals and *recommend* appropriate actions and plans to ensure stewardship strategies for the protection of the Village;

¹ See Resolution 2021-38

² Pursuant to Section 2-32 (c)(1) of the Village Code (the Ecology Board Ordinance), when appointing members to the Board, the commission shall consider a candidate's educational, technical, and professional experience, including his or her profession, degrees, training in science, biology, environmental conservation, or other ecological matters.

make special studies and surveys and follow-up recommendations; enlist and encourage public support, assistance of organizations and cooperation of businesses to implement programs and projects approved by the commission; represent the Village before any type of forum where it is necessary for public inquiries on the environment; collect data and exhibits which may be gathered relating to the quality of life within the Village; and, identify existing and potential environmental problems and recommend appropriate actions through cooperation for the benefit of protecting common natural resources.³

Carbon Recall East Miami (Carbon Recall EM): This is a for-profit renewable energy company specializing in the sale of residential and commercial solar panels, home batteries, HVAC systems, generators and other systems designed for energy sustainability and efficiency.⁴ You are the owner of this franchise company. Your company does not transact business with the Village; does not appear before the Village or the Board; and does not receive any direct financial benefit from the Village or the Board.

Discussion:

This office may consider and opine on whether a member of the Village’s Ecology Board (an advisory board) has a conflict of interest affecting his service on the board.⁵ Your inquiry prompts the application of several sections of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code):

- Under the existing scope of the Board’s duties and the information you have provided, the question of whether your business interests will affect your service on the Board is too uncertain and speculative to amount to a prohibited conflict of interest.⁶ However, as with any advisory board, there may be unanticipated occasions when a discussion or recommendation may have ramifications that could affect a board member’s private interests. In those instances, **Section 2-11.1(v), *Voting conflicts***, prohibits you from participating or voting on matters where you will be directly affected by the vote *and* have 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 the Board.⁷

³ See Section 2-32(d), Village Code

⁴ <https://www.carbonrecalleastmiami.com>

⁵ See Section 2-11.1(a), County Ethics Code; Section 7.02, Village Code

⁶ See INQ 15-68 Notably, the Board’s responsibilities are aimed at identifying and providing general environmental goals and recommendations to the Village decision-makers, which is not expected to include action or recommendations directed toward specific private business interests.

⁷ Similar to the restrictions under Section 2-11.1(v), Section 2-11.1(n) of the County Ethics Code, *Official actions where financial interests involved*, prohibits you from participating or voting in

Consequently, while Carbon Recall EM does not have any matter before the Board, you must avoid participating or voting on any issue in which your private company could foreseeably end up benefitting in a transaction with the Village.⁸

For example, while you may serve on the Board and make recommendations on the overall plan, action, project, or program for the environmental protection and sustainability of the Village, you may encounter possible conflicts if your recommendations result in a direct financial benefit to your company. *See* INQ 13-117 In the event a situation arises where your personal or financial interests may be affected by the Board's action and/or your relationship with a third party appearing before the Board falls into one of the prohibited relationships described herein, we recommend you seek an opinion from this office. *See* RQO 07-49; INQ 16-219

- Under **Section 2-11.1(g), *Exploitation of official position***, you are prohibited from using your position on the Board to secure special privileges or exemptions for yourself, your company, or others (clients). In other words, while you may share your knowledge and expertise in the area of sustainable or renewable energy, you may not use your service on the Board to proffer or promote the use or sale of *your company's* products.
- Under **Section 2-11.1(h)- *Confidential information***, you shall not engage in any business activities which may require you or induce you to disclose or use confidential information acquired by reason of your board position for your personal gain or benefit.
- Under **Section 2-11.1(m)(2), *Prohibited appearances***, you are prohibited from appearing, either directly or through an associate, before the Board, to make a presentation or seek a benefit on behalf of a third party/client; nor may you be compensated 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. *See* INQ 13-224
- Also, pursuant to **Section 2-11.1(i)**, all board members must file financial disclosure forms every year. Should you have any questions, feel free to contact us or the Village Clerk for more details.

Conclusion

Based on the information provided, it does not appear that you have a conflict of interest prohibiting your service on the Board as long as you abide by the ethical provisions cited herein and any other pertinent ordinances and regulations of the Village of Biscayne Park.

any official action affecting a business in which you or any member of your immediate family has a financial interest. Therefore, you may not vote on any matter which may affect your company.

⁸ *See generally* INQ 15-79

Notwithstanding, if your private business interests will cause recurring conflicts impairing your independence of judgment in the performance of your Board's duties, you should reconsider your appointment. *See* Section 2-11.1(j), County Ethics Code (*Conflicting employment prohibited*)

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.

Cordially,
Martha D. Perez
Martha D. Perez
General Counsel

Cc: COE Legal Staff