



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Lorena Bravo  
City Attorney  
City of Hialeah

Reinaldo Regalado  
Former Building Department Employee  
City of Hialeah

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

**SUBJECT:** INQ 2021-116 Section 2-11.1 (q), Post-employment restrictions (Two-Year Rule)

**DATE:** August 11, 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 conflict of interest provisions that may apply following Mr. Reinaldo Regalado's retirement from the City of Hialeah, specifically as it relates to his prospective employment with a potential City vendor and Section 2-11.1(q) of the County Ethics Code - the Two-Year Rule.

Facts:

Mr. Reinaldo Regalado retired on June 30, 2021 after twenty years of service with the City of Hialeah, sixteen with the City's Building Department. Mr. Regalado is a registered architect and as a City employee he performed several functions in the Building Department including Deputy Building Official and Chief Building Inspector, all related to the application and enforcement of the Florida Building Code. The only person superior to Mr. Regalado in terms of duties and authority was the Building Official. Mr. Regalado also reviewed plans and performed inspections.

Since his retirement, Mr. Regalado has accepted a position with a national engineering firm, Universal Engineering Sciences (Universal). Universal provides engineering services throughout the United States, including Geotechnical Engineering, Construction Materials Testing & Inspection, Building Code Compliance, Environmental, and Building Envelope. Universal's work

includes both public and private clients and consists of projects ranging from transportation and healthcare to commercial and education.

Mr. Regalado has been hired by Universal as the Assistant Branch Manager for the Medley office and its market covers at least the entire County. He would supervise Universal's Medley branch employees. Universal is likely to leverage Mr. Regalado's contacts and extensive experience working for the City.

Issue:

Mr. Regalado poses the following concerns in order to comply with all applicable conflict of interest provisions following his retirement from the City of Hialeah, specifically as it relates to his employment with Universal, a potential City vendor, and Section 2-11.1(q) of the County Ethics Code- the Two-Year Rule:

1. Can Universal act as a sub-contractor to a City contractor engaged in a public works project assuming the public works project does not require a building permit and would not bring Mr. Regalado into contact with any of his former colleagues, subordinates or the Building Official at the City's building department?
2. Can Universal provide construction services to a land-owner/developer of a private project in the city if the project would require building permits and therefore subject Mr. Regalado's work product, on behalf of Universal, to the review and approval of Mr. Regalado's former colleagues, subordinates or the Building Official in the city's building department?
3. Can Universal provide services directly to the City on a city project involving building department oversight, i.e. Mr. Regalado's performance of the contract would be supervised or approved by Mr. Regalado's former colleagues, subordinates or Building Official at the city's building department?
4. Can Universal lobby the city?
5. Can Mr. Regalado, as an architect, have private clients whose projects are subject to permitting and regulation by the city?

Discussion:

Section 2-11.1(q)(1) of the Miami-Dade County Ethics Code prohibits former municipal employees from "lobbying" their former cities for a period of two years following separation.<sup>1</sup>

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<sup>1</sup> Section 26-33 of the Hialeah Code contains a similar post-employment bar on lobbying City officials. Specifically, Section 26-33(b) states in pertinent part, "no person shall appear in representation of any third party for compensation

Moreover, the post-employment lobbying activity prohibitions contained in subsection (q) of the Ethics Code are the more expansive than those found under the general lobbying ordinance. *See* RQO 12-10.<sup>2</sup>

Whereas the general lobbying ordinance characterizes lobbying as advocating for items that will foreseeably be decided or recommended by elected officials, chief administrative officers, boards or committees, the post-employment subsection contains no such limiting language. Consequently, advocating for decisions that may be made at the sole discretion of any municipal employee, not necessarily those that will progress to the city's elected body, chief administrative officer, board, or committee, are prohibited. *See* INQ 20-63 citing RQO 12-09; RQO 13-07.

Former city employees are however allowed under subsection (q) of the Ethics Code to share institutional knowledge regarding their former municipal employer's procedures with their new clients, and to provide guidance to their clients or employers regarding interactions with the city. *See* INQ 20-63.

Direct meetings and contacts by the former employee with city personnel are permissible as long as there is no *advocacy* involved in the interactions and the former city employee is not seeking to *influence* city personnel. *See* INQ 19-75 and INQ 20-63.

Accordingly, in response to the questions you asked, the following directives are applicative for two years following your municipal employment:

1. *Can Universal act as a sub-contractor to a City contractor engaged in a public works project assuming the public works project does not require a building permit and would not bring Mr. Regalado into contact with any of his former colleagues, subordinates or the Building Official at the city's building department?*

Yes, Universal may serve as a subcontractor to a company that has been awarded a City contract, regardless of the project requiring a building permit; however, Mr. Regalado cannot interact with City personnel in an attempt to influence any changes in the contract or to influence any other official City decisions. *See* INQ 12-104 (citing to RQO 12-09).

Hence, Mr. Regalado is prohibited from making presentations before City Selection Committees, City boards and agencies, the City Commissioners and its boards, committees and subcommittees.

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before the city council or other city board, commission or agency for a period of two years after the officer, official or employee has left city service or terminated city employment, unless employed by another governmental entity. This section does not prohibit an affected officer, official or employee from representing himself or from presenting personal opinions as a citizen or resident."

<sup>2</sup> *See also* RQO 04-33 to Charles Danger) Director, County Building Dept.; RQO 04-201 to Rene Rodriguez, retired Director, County Housing Agency; RQO 04-34 to Danny Alvarez, former Director, County Transit Dept.; RQO 01-38 to Miguel de Grandy re: Nick Mazzora, former Aide to County Commissioner Joe Martinez; RQO 08-28 to Paul Raymond, retired Chief Mechanical Inspector, City of Miami Beach; and also, RQO 00-12, RQO 03-120, RQO 04-48, RQO 04-106 and RQO 04-148.

This prohibition is broad and covers any activity where Mr. Regalado would attend meetings and is publicly identified as part of Universal's lobbying team. *See* RQO 04-34 (citing to RQO 01-38, where the Ethics Commission opined that a former County employee could not engage in such activities but was not prohibited from attending quasi-judicial hearings and County Commission meetings and from providing administrative support as long as he was not publicly identified as a member of the lobbying team).

Consistent with RQO 04-34, the Two-year Rule does not preclude Mr. Regalado from participating in the following activities:

- Advising Universal clients about City regulations and other policies relevant to Universal's clients.
- Having his name appear on the firm's letterhead and Table of Organization.
- Including his resume and qualifications in proposals and solicitation applications submitted to the City on behalf of Universal and its clients.
- Submitting routine administrative requests or applications on behalf of Universal clients, that are solely ministerial, such as filing documents or requesting records. [*See* RQO 03-35]
- Appearing before municipal councils, boards, agencies and committees other than the City of Hialeah, or meeting with municipal staff from other cities on behalf of Universal.

In addition, the Code of Ethics does not entirely restrict Mr. Regalado's participation in meetings with City staff on behalf of Universal and its professional partners. Again, direct meetings and contacts by Mr. Regalado with City personnel are permissible as long as there is no *advocacy* involved in the interactions and Mr. Regalado is not seeking to *influence* City personnel. *See* RQO 04-34, INQ 12-104, INQ 19-75, and INQ 20-63.

2. *Can Universal provide construction services to a land-owner/developer of a private project in the city if the project would require building permits and therefore subject Mr. Regalado's work product, on behalf of Universal, to the review and approval of Mr. Regalado's former colleagues, subordinates or the Building Official in the city's building department?*

Yes, Universal may provide services to a landowner or developer for a project in the City, even when that project is subject to the review of Mr. Regalado's former City department, provided Mr. Regalado does not interact with City personnel in an attempt to influence any official City decisions. *See* INQ 12-104 citing RQO 12-09.

In RQO 12-09, the Commission on Ethics opined that post-employment restrictions under Section 2-11.1(q) include "performing activities intended to influence any official determination, regardless of whether the determination will foreseeably be decided or recommended by any of the city's commissions, boards, committees or the [Mayor]." Accordingly, Mr. Regalado would be prohibited from having any conversations with any City officials or employees in any attempt

to influence the outcome of the decision-making process. However, he would be permitted to engage in interactions that are considered ministerial in nature, including dropping off or filing administrative applications or other paperwork, filing permit applications, obtaining documents, or requesting information about a permit, provided that he does not engage in any conversations to influence any official action in the course of submitting the paperwork. *See* INQ 15-154 citing RQO 12-09; *see also* RQO 04-34.

3. *Can Universal provide services directly to the City on a city project involving building department oversight, i.e. Mr. Regalado's performance of the contract would be supervised or approved by Mr. Regalado's former colleagues, subordinates or Building Official at the city's building department?*

Yes, Universal may provide services or contract directly with the City on a project involving building department oversight, but Mr. Regalado may not interact with City personnel in an attempt to influence any changes in the contract or to influence any other official City decisions. *See* INQ 12-104 citing RQO 12-09.

4. *Can Universal lobby the city?*

Yes, Universal may lobby the City of Hialeah. However, Mr. Regalado is prohibited from participating in any activities where he is part of the lobbying team advocating on behalf of Universal or its clients. *See* RQO 01-38 and RQO 04-34. Examples of permissible activities for Mr. Regalado have been addressed above.

5. *Can Mr. Regalado, as an architect, have private clients whose projects are subject to permitting and regulation by the city?*

While Section 2-11.1 (q) of the County Ethics Code prohibits former municipal employees from lobbying, broadly defined to include advocacy and attempts to influence city elected officials, administrative officers, employees, boards, and committees, there is no *blanket* prohibition on accepting engagement or employment that may require interaction or contact with the city. *See* INQ 19-75 and INQ 20-63.

Therefore, as long as Mr. Regalado is cautious in avoiding advocacy or seeking to influence Hialeah elected officials or personnel in his interactions with the City, there is no prohibition in the County Ethics Code that would preclude these activities. *See* INQ 19-75 and INQ 20-63.

#### Conclusion:

The Two-Year Rule as contained in Section 2-11.1 (q) of the County Ethics Code, prohibits Reinaldo Regalado from lobbying City of Hialeah elected officials and personnel for a two-year period after his separation from City service. However, he may be employed or retained by persons and parties interacting with City officials and personnel on City matters as long as in his interactions with the City there is no advocacy or attempt to influence.

Finally, the County Ethics Code represents the minimal standard of conduct for those who have served in local government and remain subject to the two-year rule prohibiting lobbying by former

employees. As such, former employees are encouraged to act cautiously in their interactions with their former employer.

This opinion is limited to the facts as you and City staff 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.