

MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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June 22, 2022

Via email to expedite delivery:

ljulien@miamigardens-fl.gov

Honorable Linda Julien
Miami Gardens Councilmember
18605 Northwest 27th Avenue
Miami Gardens, Florida 33056

Re: INQ 2022-109, International Travel as Miami Gardens TPO Designate
Sections 2-11.1(d), Voting Conflicts and 2-11.1(g), Exploitation of Official Position

Dear Councilwoman Julien:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of the County Ethics Code to the consideration and vote by the Miami Gardens Council on a matter authorizing your official travel to France as the city's representative on the regional transportation authority, and the expenditure of public funds related to the trip.

Facts:

You are a Councilmember serving on the Miami Gardens Council and Rodney Harris is the Mayor of Miami Gardens.

In compliance with federal law, receipt of federal highway funds in urban areas is predicated on the existence of a comprehensive transportation planning process. Consequently, pursuant to Florida law, the predecessor to the Miami-Dade Transportation Planning Organization (TPO) was established in 1977 pursuant to state and county interlocal agreement. The TPO serves as the metropolitan planning organization for the Miami urbanized area.

Pursuant to Florida law, the TPO Governing Board includes municipal representatives from each city in the jurisdiction with a population of at least 50,000 residents. As a result, Miami Gardens is a member of the TPO Governing Board, and the Mayor of Miami Gardens represents the city on the board.

A TPO leadership group will be traveling to Paris to meet with local public and private transportation officials and experts. This will be a factfinding trip for the officials and your costs

of travel and lodging will initially be paid for by Miami Gardens. Travel costs for the rest of the TPO Governing Board members will be paid for by the TPO. ¹

Mayor Harris has a scheduling conflict and has requested that you travel in his stead on behalf of the City of Miami Gardens.

The Miami Gardens Council will be considering and voting on the Mayor's designation, enabling you to travel as the city's representative on the TPO leadership team's travel to Paris and also authorizing the expenditure of municipal travel funds in anticipation of possibly being reimbursed.

Issue:

Whether a member of the Miami Gardens Council may consider and vote upon a matter before that board, authorizing her official travel to France as the city's representative on the regional transportation authority, and the expenditure of public funds related to the trip.

Discussion

Section 2-11.1 (d) of the County Ethics Code provides that a voting conflict may be created where an elected official has an enumerated employment, legal, or financial relationship with an entity that would be or might be directly or indirectly affected by the action of the board. More broadly, that subsection also provides that even if an enumerated relationship does not exist with entity that may be affected by the action of the board, a voting conflict may arise if the official "might, directly or indirectly, profit or be enhanced by the action of the board."

The Ethics Commission has previously opined that when the official's enumerated relationship is with a government or public entity that may be affected by the action of the board, then issue of a voting conflict on such matters is more narrowly described as whether any possible or potential *benefit to the Commissioner personally or professionally* may arise from the vote. ²

¹ Because you are traveling in place of Mayor Harris, then Miami Gardens will first have to pay for your travel and room and board costs. The TPO Governing Board is due to consider whether that entity will reimburse Miami Gardens for expended costs. This was confirmed with TPO staff.

² See generally INQ 20-37 (A County Commissioner that is also a School Board employee may vote on an item that authorizes County departments to exercise additional contract authority allowing for the continued purchase of food products from the School Board and will thus affect that entity. Even though "employee" is an enumerated relationship in Sec. 2-11.1(d) of the Ethics Code, because her employment is with a *government entity* that will be affected by the board's vote, then the Ethics Commission will consider whether any possible or potential *benefit to the Commissioner personally or professionally* may arise from the vote); See also INQ 09-83 (A dual member of the Citizen's Transportation Advisory Committee (CTAC) and the Miami-Dade Expressway Authority (MDX) board of directors, may vote on a matter before the CTAC board

Section 2-11.1(g) of the Ethics Code prohibits public officials from exploiting their official position for private gain or benefit. In applying this section, the Ethics Commission has repeatedly opined that domestic or international travel by elected officials in their official capacity, including but not limited to factfinding travel to meet with transportation infrastructure officials and experts, is objectively a laudable public purpose and does not constitute prohibited exploitation. Public funds may be used to pay for travel and lodging costs.³

Accordingly, a vote by an elected official on a matter relating to an objectively a laudable public purpose, that also involves another governmental entity, and on which public funds may be expended, would not constitute a *benefit to the voting official personally or professionally*.

Section 2-11.1(w) of the County Ethics Code, *Prohibition on acceptance of travel expenses from county vendors*, prohibits county and municipal officials or employees from accepting, directly or indirectly, any travel expenses, including, but not limited to transportation, lodging, meals, registrations fees and incidentals from any County contractor, vendor, service provider, bidder, or proposer. However, the provisions of that subsection do not apply to travel expenses paid by governmental entities.

Opinion

Under the facts and details provided to the Ethics Commission in this matter and applying the reasoning of the previous opinions issued by the Ethics Commission to the facts presented here, because the international travel as Miami Gardens' designate to the TPO relates to a public purpose, involves another governmental entity, and may be paid for with public funds, then you are not prohibited from considering or voting on the matter when it comes before the Miami Gardens Council.

The vote on the matter would not constitute or create a benefit to you personally or professionally apart from your public role and therefore you are not prohibited by Section 2-11.1(d) of the County Ethics Code, from considering or voting upon the matter.

that affects MDX because he will not be deriving a personal or financial benefit from the vote on the matter.

³ See generally INQ 2022-45 (County Commissioner travel to Spain on an outbound international trade promotion trip, funded in part by CAMACOL, does not constitute exploitation of official position.); INQ 2021-39 (County Commissioner travel to one of the largest cities in the United States in order to meet with local officials, tour airport and transit infrastructure, to inform airport, transit, and economic development related policy and legislation here in Miami-Dade County, is objectively a laudable public purpose); INQ 19-10 (County Commissioner travel to Morocco to attend an event focused on expanding trade between Miami and Casablanca and predicated on the establishment of direct non-stop air travel between Miami International Airport and Casablanca, funded in part by the County and the American Chamber of Commerce in Morocco, does not constitute exploitation of official position)

This opinion is limited to the facts are presented to the Ethics Commission, is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions relating to the Code of Ethics for Public Officers and Employees, contained in Chapter 112, Florida Statutes, should be referred to the Florida Commission on Ethics.

We hope this opinion is of assistance and we remain available to discuss ay matters addressed herein.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jose J. Arrojo".

Jose J. Arrojo
Executive Director

cc: Sonja K. Dickens, Esq.
Miami Gardens City Attorney

All COE Legal Staff

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.