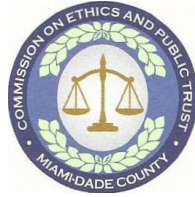


**MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST**

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February 9, 2022

Via Facsimile & U.S. Mail:  
cobiella@glmlegal.com

Lorenzo Cobiella, Esq.  
Gastesi, Lopez & Mestre, PLLC  
8105 Northwest 155th Street  
Miami Lakes, Florida 33016

Re: INQ 2022-11, Section 2-11.1(d), County Ethics Code, Voting Conflict

Dear Mr. Cobiella:

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding a possible voting conflict with respect to an upcoming vote concerning a salary increase for the Town Manager.

Facts:

Luis Collazo serves as an elected Councilman for the Town of Miami Lakes. The Council will be voting on a salary increase for the Town Manager.<sup>1</sup> The Manager has overall responsibility for the day-to-day operation of the Town and the supervision of its employees.

Councilman Collazo’s spouse, Clarisell De Cardenas, is employed by the Town of Miami Lakes as its Community Engagement and Outreach Director. Ms. De Cardenas has been in this position for several years since her promotion on or about February 2018, after holding two other positions over the last several years in the Town of Miami Lakes.

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<sup>1</sup> This opinion was communicated to the Town Attorney and to the voting Councilman before the Council vote on February 8, 2022. In order to expedite the ethics guidance prior to the Council vote, it was provided verbally. This written opinion memorializes, verbatim, the previously provided guidance.

At the time of her promotion, Ms. De Cardenas was a direct report to the Town Manager. The Town's table of organization has changed since then, and she no longer works directly for the Manager. Ms. De Cardenas is now a direct report to the Deputy Town Manager.

Ms. De Cardenas's daily schedule is set and approved by the Deputy Town Manager. The Deputy also evaluates her work performance. His evaluation then determines whether she will be eligible to receive an annual salary bonus. Moreover, the Deputy Town Manager, if appropriate, would prepare promotion and disciplinary recommendations for Ms. De Cardenas.

Issue:

Whether Commissioner Collazo has a voting conflict that precludes him from voting on the Town Manager's salary increase because his spouse is a municipal employee.

Discussion:

To restate, Ms. De Cardenas is a municipal director in the Town of Miami Lakes. She is a direct report to the Deputy Town Manager who is her immediate supervisor. The Deputy Manager makes critical employment decisions regarding Ms. De Cardenas including setting her work schedule, making work assignments, as well as supervising and evaluating her work product. The Deputy is charged with Ms. De Cardenas' performance evaluations and has the authority to directly impact her salary. He has the authority to make promotional and disciplinary recommendations.

Ms. De Cardenas remains an "at-will" employee and the Town Manager has ultimate authority to terminate her, as she is a non-collective bargaining unit employee, as long as the termination is not contrary to law.

Section 2-11.1(a) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance, clarifies that the Ethics Code sets minimum standards of ethical conduct and that its provisions are made applicable to officials and employees of county government and to all municipal governments within Miami-Dade County, including Miami Lakes.

Section 2-11.1 (d) of the Ethics Code, prohibits elected officials from voting on or participating in any matter presented, if the official *would or might, directly or indirectly, profit or be enhanced* by the action of the City Council. This conflict voting prohibition is stricter than the state law standard codified in Section 112.3143 (1)(d), Florida Statutes, which provides that "No county, municipal or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss..." (INQ 14-86).

Given the enhanced conflict voting prohibition enumerated in the Ethics Code, circumstances that do not meet the State standard for a voting conflict could still create a voting conflict under the County ordinance in circumstances such as this one where an official might, directly or indirectly, profit or be enhanced by a vote. The County standard does not require a definite or measurable private gain or loss and may apply where there is a reasonable possibility or expectation of such an effect. (*See* RQO 15-04)

In applying the Ethics Code conflict voting prohibition, the Ethics Commission opined that an elected official should not vote or participate in the consideration of alternative code enforcement system because the official's spouse was the municipal code compliance director. Therefore, the reorganization of the code compliance department would specifically impact the spouse's job duties, work performance measurements, and salary. (INQ 13-92)

In a prior opinion provided to Councilman Collazo, the Ethics Commission noted that his spouse was an immediate report to the Town Manager and that he was directly responsible for setting her daily work activities and schedule, evaluating her performance, deciding her eligibility for compensation increases, and considering her for promotion and discipline. Accordingly, we opined that the selection of the Town manager could reasonably be expected to affect most if not all of Ms. De Cardenas' job duties and employment terms, which in turn would or might affect Councilman Collazo's interests either directly or indirectly. (INQ 18-251)

Ms. De Cardenas' supervision has changed since 2018 inasmuch as she no longer works for the Town Manager directly, he is not involved in her day-to-day work assignments or scheduling, and the overall authority for most critical aspects of her job now lay with the Deputy Town Manager.


Opinion:

Given that most if not all of the Ms. De Cardenas' employment terms are not directly impacted by the Town Manager, then the Councilman would not profit or be enhanced by directly or indirectly by the vote.

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.

If you have any further questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Jose J. Arrojo, Esq.  
Executive Director

cc: 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