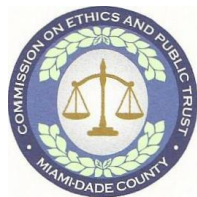


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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September 1, 2022

Via email only to expedite delivery:

denise@gtmpr.com

Ms. Denise Galvez Turros, Member
City of Miami Historic and Environmental Preservation Board (HEPB)

Re: INQ 2022-135, Voting Conflict, Section 2-11.1(v) of the County Ethics Code

Dear Ms. Galvez Turros:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for seeking ethics guidance regarding the application of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance to your consideration and vote on a matter coming before the City of Miami Historic and Environmental Preservation Board.

Facts:

Denise Galvez Turros is a member of the City of Miami Historic and Environmental Preservation Board (HEPB). The HEPB is a municipal quasi-judicial board.

Ms. Turros is the principal in Go To Marketing, Inc. dba GTMPR, a marketing and public relations firm. GTMPR rents office space in a building located at 1356 Southwest 8th Street, Miami, Florida. Ms. Turros is a tenant in the building which is owned by The Dancing Insurance Man Yeah Baby, LLC (“Dancing Man”). One of Dancing Man’s principals is William Fuller.

An item to be heard, on or about September 6, 2002, before the HEPB relates to an application by William Fuller as a principal of the Little Havana Arts Building, LLC, owner of a property located at 1501 Southwest 8th Street, Miami, Florida, to declare two “Ball and Chain” signs as historic signs and allowing their installation at the property.

Issue:

Whether a quasi-judicial board member may vote on an item declaring signs as historic and permitting their installation on a property when the applicant is a principal in an entity that leases office space to the member at another location.

Discussion:

As a preliminary matter, the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code) provides a minimum standard of conduct for Miami-Dade County local government elected and appointed public officials, advisory and quasi-judicial board members, and employees. (Section 2-11.1(a), Miami-Dade Code)

The County Ethics Code does not directly address “appearance of impropriety” issues. A public official must use his or her own judgment in determining the proper course of action when the conduct of public business creates an appearance of impropriety.

Section 2-11.1(v) of the County Ethics Code defines voting conflicts of interest for members of quasi-judicial boards. That section provides that a quasi-judicial board member shall not vote on any matter: “if the board member will be directly affected by the action of the board” and the board member has any of the following relationships with any persons or entities appearing before the board: “officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary; or stockholder, bondholder, debtor or creditor.”

“Landlord/tenant” is not listed as an enumerated relationship in Section 2-11.1(v) of the Ethics Code.¹

Also, while the Ethics Commission does not have the authority to interpret or enforce state statutes, Section 286.012, Florida Statutes, relating to voting requirements at meetings of governmental bodies, provides that a member may not abstain from voting unless there is, or appears to be, a possible conflict of interest under the state ethics code or a more restrictive local ethics rule.

That section also provides that in considering quasi-judicial matters: “If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.”²

¹ INQ 13-235 (Mayor may vote on an item to appoint an individual to a vacancy on the Town Council when the mayor subleases office space for his private law practice from the individual because the mayor has none of the prohibited relationships (landlord/tenant) with the individual and mayor will not be affected by the vote in a manner distinct from the public generally. Mayor was cautioned that were he to obtain a preferred discounted rent not available to others or if he were to become a debtor to his landlord, a voting conflict would be created.)

² See CEO 08-12 (School board member would not be presented with a voting conflict regarding measures affecting an architectural firm, an owner of which co-owns with his wife a residence leased, with an option to purchase, as the residence of the member and her husband. The votes/measures would not affect the member, or her husband (relative) and "landlord" is not a relationship enumerated in Section 112.3143, Florida Statutes); CEO 83-42 (Mayor was permitted to vote on settlement of a lawsuit between the City and his landlord where the measure did not inure to his special private gain, as tenant is not "retained" by his landlord. However, there is

Opinion:

Based upon the facts provided, it does not appear that you will be directly affected by the action of the HEPB on the item to declare two “Ball and Chain” signs as historic signs and allowing their installation at a property located at 1501 Southwest 8th Street, Miami, Florida.

Moreover, you do not have any enumerated business or legal relationship, as defined in Section 2-11.1(v) of the County Ethics Code, with the owner of the property, Little Havana Arts Building, LLC, or with the applicant, the entity’s principal, William Fuller.

While William Fuller is a principal of an entity that is your private business office landlord, landlord/tenant are not enumerated business or legal relationships in Section 2-11.1(v) of the County Ethics Code.

Consequently, there is no conflict of interest that would prohibit your vote on the matter relating the signage, as described above, that is due to be heard by the HEPB.

However, you may wish to consider the appearance of impropriety that may arise if you vote on a matter that will directly affect an individual that is the principal of an entity that is your private business office landlord.

While the Ethics Commission does not have the authority to interpret or opine upon state statutes, the plain reading of Section 286.012, Florida Statutes, and prior opinions of the Florida Commission on Ethics appear to permit you to abstain from voting on the matter.

This opinion is based solely upon the facts that you have provided. If there are additional relevant facts that you become aware of after the issuance of this opinion, or if facts change, then you are encouraged to seek further guidance.

We hope that this opinion is of assistance, and we remain available to discuss any matters addressed in this letter, if necessary, at your convenience.

Sincerely,



Jose J. Arrojo
Executive Director

sufficient appearance of a conflict of interest to permit the public officer to abstain at his discretion pursuant to Section 286.012, Florida Statutes.)

cc: All Commission on Ethics Attorneys
Jihan Soliman, Miami Assistant City Attorney
Xavier E. Alban, Miami Assistant City Attorney

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.