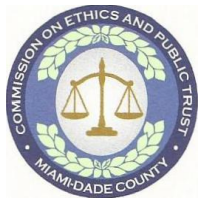


## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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March 22, 2022

Via Electronic Mail:  
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Victoria Mendez, Esq.  
City Attorney

Xavier Alban, Esq.  
Assistant City Attorney

Miami Riverside Center  
444 Southwest Second Avenue  
Miami, Florida 33130

Re: Ethics Inquiry Request, INQ 2022-49, Commissioner Christine King, Voting Conflict,  
Section 2-11.1 (d) of the County Ethics Code

Dear Ms. Mendez and Mr. Alban:

Thank you for engaging with the Miami-Dade Commission on Ethics and Public Trust and seeking ethics guidance regarding the application of the elected official voting conflict provision of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance (Ethics Code).

### Facts:

Christine King is the City of Miami Commissioner for District 5, and she also serves as the Chair of the City of Miami Commission.

The Martin Luther King Economic Development Corporation (MLK EDC) is a Florida not-for-profit corporation and a 501(c)(3) organization, with an IRS ruling year of 1983. MLK EDC is involved in the revitalization of commercial and residential areas within a specific target zone in the City of Miami. It solicits donations and grants to carry out its mission.

MLK EDC operates a business center, and it is located in the City of Miami's District 5 that Ms. King represents.

Prior to her election, Ms. King was employed as the Executive Director for MLK EDC. In November 2021, she resigned her position upon winning her seat on the City of Miami Commission.

Ms. King's nephew sits on the board of MLK EDC as a voluntary, uncompensated director. Ms. King's brother is a contracted service provider with MLK EDC.

Commission district offices in the City of Miami function as constituent resource sites. The offices provide many of the services that were formally offered at the City of Miami's Neighborhood Enhancement Team (NET) locations. These include providing residents, and business and property owners access to city, county, state, and federal government services. The offices also serve as the primary in-person link to City government.

Commissioner King would like to house District 5 offices at the MLK EDC location. This would entail the City of Miami entering a lease or rental agreement with MLK EDC. City funds would pay for the use of the space. The arrangement would require a vote of the Miami Commission.

Commissioner King would also like to sponsor and vote on measures awarding municipal grants to MLK EDC.

#### Issues:

Whether Commissioner Christine King may sponsor and vote on measures to award grant funding to her former employer, MLK EDC, a not-for-profit agency located in her district.

Whether Commissioner Christine King may vote on a measure directing municipal staff to rent or lease space at her former employer's location to house her District 5 offices.

#### Discussion:

The County Ethics Code is applicable to County and municipal elected and appointed officials, employees, board members, their family members, and certain persons that transact with local government. (covered persons) These categories of covered persons are enumerated in Section 2-11.1 (b) of the County Ethics Code. Commissioner King is a covered person pursuant to Section 2-11.1 (b) (1) of the Ethics Code that applies to members of County and municipal elected legislative bodies.<sup>1</sup>

The County Ethics code also applies to immediate family members. Section 2-11.1 (b) (9) of the Ethics Code defines "immediate family" as including spouses, domestic partners, parents and

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<sup>1</sup> The Ethics Code constitutes the minimum standard of ethical conduct and behavior for all municipal officials and officers. *See* Section 2-11.1 (2), Ethics Code.

stepparents, children, and stepchildren. Siblings and nephews are not covered persons under the Ethics Code.<sup>2</sup>

Consequently, the County voting conflict provision found at Section 2-11.1 (d) of the Ethics Code applies to Ms. King. The specific text of the county voting conflict provision establishes three distinct scenarios that may give rise to a voting conflict, influenced in part by a financial or employment relationship with the party that may be impacted by the vote.<sup>3</sup>

That section provides, in relevant part, that a local elected official may not:

[Vote] on or participate in any way in any matter presented...if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board...(i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or

[if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board] (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person...in a manner distinct from the manner in which it would affect the public generally.

...or who would or might, directly or indirectly, profit or be enhanced by the action of the Board...

As such, officials may be prohibited from voting on a measure if they have a first tier enumerated relationship with a party who might be directly or indirectly affected by any action of the board.<sup>4</sup> If such a relationship exists, an “automatic conflict of interest” arises, and the official is barred from voting.

Officials may also be prohibited from voting if they have a second tier enumerated relationship with a party who might be directly or indirectly affected by any action of the board and the official

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<sup>2</sup> *But see* Section 2-612 (b), Code of the City of Miami (The City of Miami Conflict of Interest ordinance does include siblings as covered persons. However, that provision does not alter the conclusion in this opinion as any possible benefits that might flow to Ms. King’s brother, a service provider to MLK EDC, from her contemplated conduct, is at best remote and speculative.)

<sup>3</sup> INQ 15-04 (As allowed by state law, the Board of County Commissioners has established a more stringent standard of conduct as regards the local voting conflict provision than exists under state law. The county voting conflict law specifically provides that a voting conflict may exist when 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 and effect.)

<sup>4</sup> The first tier enumerated relationships are officer, director, partner, of counsel, consultant, employee, fiduciary, or beneficiary.

would be affected in a unique or distinct manner as compared to the general public.<sup>5</sup> If such a relationship exists, and the official would be uniquely affected, then a “contingent voting conflict” arises, and the official is barred from voting.

Finally, officials may be prohibited from voting if they would or might, directly or indirectly, profit or be enhanced by the action of board. If such then a “broad voting conflict” exists, then the official is barred from voting.

Commissioner King does not currently have a first or second tier enumerated relationship with MLK EDC.

The Ethics Commission has previously considered scenarios involving local elected officials that had prior and recent business relationships with developers that were going to be affected by votes of that city’s commission. Those opinions recognized that the voting officials did not have enumerated relationships with parties that could be affected by votes and concluded that the elected officials did not have *per se* voting conflicts pursuant to Section 2-11.1 (d) of the Ethics Code prohibiting their consideration and vote on matters that would affect recent business associates. No broad prohibited voting conflict was found in those cases.

Again, while concluding that neither the enumerated relationship nor broad voting conflict sections of the Ethics Code prohibited their votes, in those cases, the Ethics Commission nevertheless reminded elected officials that:

The County’s Conflict of Interest and Code of Ethics provides a minimum standard of conduct for public officials. It does not directly address “appearance of impropriety” issues that should guide the actions of all public servants, nor does it address the subjective mindset of a public official who, for reasons outside of the Code, does not feel capable of being fair or objective in a particular matter, due to personal considerations or recent financial arrangements. A public official under such circumstances must use his or her own judgment in determining the proper course of action when conducting public business.<sup>6</sup>

Conclusion:

Applying the rationale underlying the Ethics Commission’s conclusions in the opinions cited above, Commissioner King does not have a voting conflict pursuant to Section 2-11.1 (d) of the Ethics Code that would prohibit her consideration and vote on grant funding, space rental, or space lease measures relating to her recent and former employee, MLK EDC.

The cases cited involved elected officials that had recent business associations with for-profit, private entities and Ms. King’s recent relationship is as an employee with a not-for-profit entity. This is a relevant distinction. Yet, in abundance of caution, and because of her family members’ connections to MLK EDC, she is urged consider whether sponsoring and voting on these measures, at this time, may create an appearance of impropriety.

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<sup>5</sup> The second tier enumerated relationships are stockholder, bondholder, debtor, or creditor.

<sup>6</sup> See generally RQO 12-03; INQ 13-148; 2021-69

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,

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

Jose J. Arrojo  
Executive Director

cc: All Commission on Ethics Attorneys

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.