

**Meyers, Robert (COE)**

ING 07-87

**From:** Meyers, Robert (COE)  
**Sent:** Tuesday, June 12, 2007 11:30 AM  
**To:** 'Eve Boutsis'  
**Subject:** RE: Read Herald article below..

Eve,

After consulting with Victoria Frigo, I am prepared to offer you an opinion on this matter. Section 2-459 of the Miami Beach Code defines an agency as any board, commission, committee or authority of the city, whether advisory, ad hoc or standing in nature. The ramifications of this are that the Housing Authority of the City of Miami Beach is covered by this code section and Akerman Senterfitt would be barred from lobbying any city agency or the city commission as long as Mr. Chaykin remains on the Housing Authority.

If you want a formal opinion from the Ethics Commission, I would be more than happy to place this item on our June 26<sup>th</sup> agenda. If so, please get back to me no later than Friday, June 22<sup>nd</sup> to give Victoria some time to prepare a draft opinion for the Ethics Commission's consideration.

Thanks,

Robert

**From:** Eve Boutsis [mailto:eboutsis@ngf-law.com]  
**Sent:** Monday, June 11, 2007 4:31 PM  
**To:** Meyers, Robert (COE)  
**Subject:** FW: Read Herald article below..

See correction below... in case you have any questions as to prior email

**From:** Eve Boutsis  
**Sent:** Monday, June 11, 2007 4:11 PM  
**To:** 'Meyers, Robert (COE)'  
**Subject:** FW: Read Herald article below..

Robert:

I have a question. Below is an article relating to an opinion from your office relating to Becker & Poliakoff. The issue I have is whether the Akerman Senterfitt partners can continue to lobby the City of Miami Beach if Steven Chaykin, remains the chair (on the board) of the Housing Authority of the City of Miami Beach (HACMB). When appointed to HACMB, Mr. Chaykin was with the firm of Zuckerman Spader. He then moved on to Akerman. The HACMB, as you know, is a statutorily created independent agency dealing with affordable housing. Under the enabling statute, the City Commission appoints the Board members of the HACMB, but, otherwise the HACMB is independent. HACMB does not report to city commission. So, the question is, whether HACMB is a "Miami Beach Board" and thus would ban any partner in Akerman any lobbying work at the City,

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so long as Mr. Chaykin remains a member of the HACMB Commission? As you may be aware, a few months back I contacted Victoria Frigo of your office relating to Akerman and our chair. When Mr. Chaykin moved to Akerman the question came up can Akerman continue as labor legal counsel to the HACMB. Ultimately, I sought a formal opinion from state Ethics Commission, which indicated, based upon the circumstances, there was no conflict presently. However in future, if seeking labor counsel services, either Mr. Chaykin could not be on the board, or Akerman could not seek the contract. Based upon the B&P opinion below, I wonder what are ramifications for Mr. Chaykin, the HACMB, and City of Miami Beach.

Thanks. Hope all is well/

**Eve A. Boutsis,**

Office of General Counsel to the  
The Housing Authority of the City of Miami Beach  
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IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, PLEASE NOTIFY US IMMEDIATELY.  
THANK YOU.

The Miami Herald  
Posted on Sat, Jun. 09, 2007  
Local perspectives  
MIAMI BEACH  
LOBBYING LOOPHOLE GETS PLUGGED

The law firm of Becker & Poliakoff is best known for its 100-percent success rate in lobbying at Hollywood City Hall. But the firm operates in other cities, too. So after one of its associate lawyers, Michael Góngora, was elected to the Miami Beach Commission last November, the law firm asked the Beach's city attorney if it could keep lobbying there. The answer? No.

The firm appealed that decision to the Miami-Dade County Commission on Ethics and Public Trust. The commission agreed with the city attorney. The law firm then appealed in court, in a case that is still pending.

The firm also sought to use a loophole in the city's 10-year-old lobbying ordinance. The ordinance said that companies could not lobby the commission or any city board if a commissioner or board member is "a partner, joint venturer, co-corporate shareholder [or] co-owner of property." Becker & Poliakoff argued that since Mr. Góngora is an associate, not a partner or other stakeholder cited in the ordinance, it should be able to lobby Beach officials.

Well, that was too much for Mr. Góngora's fellow commissioners, who last month on first reading amended the ordinance to prohibit lobbying by a company with an employee -- regardless of title -- serving on the commission or a city board.

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This week, although he had threatened to fight it, Commissioner Góngora instead took the high road. He abstained from the final vote on the change, and declined to comment about it afterward. This toughens even more what are arguably the strongest local regulations on lobbyists. Good for Miami Beach commissioners.

See what's free at AOL.com.

ORDINANCE NO. 2007-3561

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 2 THEREOF ENTITLED "OFFICERS, EMPLOYEES AND AGENCY MEMBERS," SECTION 2-459 "CERTAIN APPEARANCES PROHIBITED" BY INCLUDING "EMPLOYEE" AND "OF COUNSEL" RELATIONSHIPS WITHIN THE DEFINITION OF THE TERM "ASSOCIATE"; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

**SECTION 1.** That Miami Beach City Code Chapter 2, Article VII, Division 2 thereof entitled "Officers Employees and Agency Members," section 2-459 thereof entitled "Certain Appearances Prohibited," is hereby amended to read as follows:

**Sec. 2-459. Certain appearances prohibited.**

(a) No member of a city board, agency or committee or a member of any board, agency or committee created hereafter which is designated as a board, agency or committee subject to the purview of this section shall:

(1) Either directly or through an associate, appear, represent or act on behalf of a third person before the city commission or any city agency with respect to any agency action sought by the third person.

(2) Either directly or through an associate be engaged as a lobbyist for and on behalf of a third person with respect to any official action by any public officer sought by such third person.

(b) Definitions. As used in this section, the following definitions shall apply:

Agency means any board, commission, committee or authority of the city, whether advisory, ad hoc or standing in nature.

Associate means any person or entity engaged in or carrying on a business enterprise with a city agency member as a partner, joint venturer, or co-corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange or co-owner of property. Associate shall further include a business affiliation with a City agency member where an "employee" or "of counsel" relationship exists.

Lobbyist means all persons, firms, or corporations employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat, or modification(s) of any of the following: (1) ordinance, resolution, action or decision of any commissioner; (2) any action, decision, or recommendation of any city board or committee; or (3) any action, decision or recommendation of the city manager, deputy city manager, assistant city managers, all department heads, all division heads, city attorney, chief deputy city attorney, deputy city attorneys, and/or all assistant city attorneys (except when such personnel are acting in connection with administrative hearings) during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the city commission or a city agency. "Lobbyist," as defined above, specifically includes the principal, as described above, as well as any agent, attorney, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, attorney, officer or employee. For purposes of this section, "lobbyist" shall exclude any person who only appears as a representative of a not for profit corporation or entity (such as a charitable organization, a neighborhood or homeowner association, a local chamber of commerce or a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.

Public officer means any person elected or appointed to hold office in the city, as a member of an agency which shall include an advisory body.

(Ord. No. 97-3105, § 1, 12-17-97)

\* \* \*

## **SECTION 2. REPEALER**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

## **SECTION 3. SEVERABILITY**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

## **SECTION 4. CODIFICATION**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect the 16th day of June, 2007.

**PASSED and ADOPTED** this 6th day of June, 2007.

**ATTEST:**

Robert Parcher  
**CITY CLERK**  
Robert Parcher

David Dermer  
**MAYOR**  
David Dermer

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

Requested by Commissioner Matti Herrera Bower

Joseph J. [Signature]  
**City Attorney**      5/4/07  
**Date**

**STATE OF FLORIDA  
COUNTY OF MIAMI-DADE**

**I, ROBERT PARCHER, City Clerk of City of  
Miami Beach, Florida, do hereby certify that  
the above and foregoing is a true and correct  
copy of the original thereof on file in this  
office.**

**WITNESS my hand and the seal of said City  
this 8th day of JUNE A.D., 2007.**

Robert Parcher  
**ROBERT PARCHER**

**City Clerk of the City of Miami Beach, Florida**