

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Wednesday, August 27, 2008 12:40 PM
To: 'lmsum@earthlink.net'
Subject: INQ 08-143

Meaning of "indirectly" in 2-11.1 (n)

DATE: August 27, 2008

TO: Lynn M. Summers
RE: Definition of "indirectly affecting a business" at § 2-11.1 (n) of the Ethics Code

INQ 08-143

In your email of August 25, 2008, and in a telephone conversation that same day, you asked for clarification regarding actions of a board member that would "*indirectly*" affect "a business in which [the board member] or any member of his immediate family has a financial interest."

Attached are some recent opinions that may help clarify the circumstances that trigger a violation under § 2-11.1 (n)—RQO 05-108, RQO 07-12, and INQ 07-136. I understand that you have already consulted the Ethics Commission website for discussions on this topic, specifically at RQO 00-97, RQO 02-63,

[\[1\]](#)

RQO 04-89, and RQO 04-150.

The Ethics Commission will be happy to provide an opinion on § 2-11.1 (n) to any person within its jurisdiction, based on the specific facts of the case.

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Although not exactly on point, the State Commission on Ethics has opined on the meaning of "indirect" as it applies to Fla. Stat. 112.313(3), which prohibits officers and employees "either directly or indirectly" from doing business with their own agencies or with companies doing business with their agencies. You will note that the State Commission on Ethics has excluded from this prohibition *indirect* benefits that inure to *subcontractors*. For example, a company owned collectively by the children of an aviation authority board member was allowed to subcontract with the general contractor on an aviation authority project. The State Commission on Ethics reasoned that the prime contractor had a contractual relationship with the aviation authority, but that the subcontractor did not. See CEO 78-83 at www.ethics.state.fl.us.