

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Tuesday, October 05, 2010 4:01 PM
To: 'craig@shermansimone.com'
Subject: INQ 10-172 Bay Harbor Islands

Mr. Sherman,

This is in response to your question about a potential voting conflict for a Bay Harbor Islands council member.

You stated that two local businesses are competing to lease town property. One of the competing businesses is a health club, which is owned by a close friend of a council member. The same council member is also a paying member of the health club. You asked if the council member must recuse him/herself when the issue of choosing a tenant comes before the council.

The County Ethics Code does not prohibit the council member from voting on this matter as long as he/she does not have certain enumerated relationships with the business owner or he/she would not be affected in a manner distinct from the manner in which the vote would affect the public generally. (See County Code at Sec. 2-11.1 (d).)

The facts you presented indicate that the council member has none of the prohibited enumerated relationships with the health club owner (officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor) nor will the council member profit or be enhanced by the action of the town council.

Although not prohibited by law, an appearance of impropriety may be created at the time of the vote, due to the close relationship. The council member may want to clarify this issue in public session if he/she chooses to the vote.

Please feel free to contact Robert Meyers or me if we can be of further assistance.

Sincerely,

[Victoria Frigo, Staff Attorney](#)

Miami-Dade County Commission on Ethics
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From: Craig Sherman [mailto:craig@shermansimone.com]
Sent: Friday, October 01, 2010 2:54 PM
To: Meyers, Robert (COE)
Cc: Frank Simone; Ronald J. Wasson; Mickie Marchand; POLCHIEFKW@aol.com

10/5/2010

Subject: Re: Ethics Opinion for Town of Bay Harbor Islands, Fl

Hello Mr. Meyers: I am writing as the Town Attorney for the Town of Bay harbor Islands, Fl. My question is: May one of the Council Members recuse themselves from voting to approve one of two new tenants (who are bidding against each other for lease of some Town property) when one of the competing tenants owns a health club (which is proposed for the new lease site) and the Council Member is a paying member of the health club, will use its new facilities (if it is the approved tenant), and where the Council Member is very close personal friends with the health club owner? Thank you.

SHERMAN & SIMONE P.A.

Attorneys at Law

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10/5/2010