

Via First Class Mail
and
email at djdannydaze@yahoo.com

ETHICS COMMISSIONERS

Kerry E. Rosenthal, CHAIRPERSON
Dawn E. Addy, VICE CHAIRPERSON
Magda Abdo-Gomez
Judge Seymour Gelber
Erica Wright

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

December 10, 2009

Daniel E. Gomez
425 NW 73 Avenue
Miami, FL 33126

Re: ROO 09-44 Gomez

Dear Mr. Gomez:

In correspondence to our office on November 18, 2009, you asked about possible ethics conflicts or appearances of impropriety that would prevent you from participating in the City of Miami's First Time Homebuyer's Down Payment Assistance Program. The program is administered by the City of Miami Department of Community Development (DCD), where your mother, Maria Gomez, is employed as a Loan Specialist.

In an opinion rendered at a public meeting on December 9, 2009, the Ethics Commission found that no conflicts exist under local ethics laws to prevent you from participating in the First Time Homebuyer's Down Payment Assistance Program, based on your mother's employment status with the City of Miami DCD, if certain provisos are followed. The relevant local ethics laws are the City of Miami Code at § 2-612(a) and the Miami-Dade County Code at § 2-11.1 (c)(5)(6).

The facts as we understand them are as follows:

1. The City of Miami DCD is administering the First Time Homebuyer's Down Payment Assistance Program, which provides down payment and closing cost assistance to eligible families buying first homes.
2. The program is funded through a federal home investment partnership program and the State Housing Initiatives Partnership Program.
3. Your mother, Maria Gomez, helps administer the First Time Homebuyer's Down Payment Assistance Program as a loan processor for the City of Miami DCD.
4. According to Alfredo Duran, Deputy Director of the DCD,¹ Ms. Gomez has no discretionary duties regarding approval or denial of these loans. In essence, Ms. Gomez gathers information and presents required documentation to her supervisors, who approve or deny the applicants' requests.

¹ Telephone conversation, Nov. 24, 2009.

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Thursday, January 27, 2011 3:16 PM
To: 'wilsonv31@hotmail.com'; 'wvallecillo@miamigov.com'
Cc: Duran, Alfredo
Subject: City Employee's Participation in First-Time Home Buyer Program

Reference No. INQ 11-13 Vallecillo

Mr. Vallecillo,

In correspondence to our office on January 27, 2011, you asked if the City and County Ethics Codes prevent you from participating in the City of Miami's First-Time Home Buyer Program. You stated that you are employed as a maintenance technician in the City of Miami General Services Administration (GSA). The First-Time Home Buyer Program is administered by the City of Miami Department of Community Development (DCD).

[1]

Based on past opinions rendered by the Ethics Commission, the Ethics Commission staff finds that the local Ethics Codes do not prevent you from participating in the First-Time Home Buyer Program.

Although the City of Miami generally prohibits City employees from entering into contracts with the City, an exception is made regarding federal affordable housing programs and the State Housing Initiatives Partnership Program administered by the City. The Code allows a City employee to participate in these types of programs—

provided that the employee meets all criteria of the program and provided that the city manager approves the participation of the employee and that the employee is identified as being an employee of the city in applicable documents. City of Miami Code at Sec. 2-612 (a).

Similarly, the Miami-Dade County Code at Sec. 2-11.1 (c)(5)(6) allows a qualified municipal employee to participate in his city's home assistance program as long as the employee is not involved "in the administration of said single-family mortgage loan program." Since you are employed by GSA, you would have no involvement with the administration of the First-Time Home Buyer Program.

Consequently, the City and County Ethics Codes allow you to participate in the First-Time Home Buyer Program as long as you meet all of the conditions described above.

If you have further questions, please do not hesitate to contact me

Sincerely,

Victoria Frigo, Staff Attorney
 Direct Phone: 305 350-0601
 Fax: 305 579-0273

c: Alfredo Duran, Deputy Director
 City of Miami Department of Community Development
 444 SW 2nd Ave., 2nd Floor
 Miami, FL 33130
 email at ADuran@miamigov.com

[1]

See RQO 09-44, in which the son of a DCD employee was allowed to participate in a home assistance program as long as the employee was not involved in any way in the administration of her son's application.

1/27/2011

5. Mr. Duran stated that, if you were to apply for a loan, a loan processor other than your mother would be assigned to your case.

The City of Miami Code at Section 2-612(a) allows a family member of a city employee to participate in federal affordable housing programs and the State Housing Initiatives Partnership Program administered by the city—

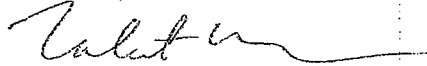
provided that the [family member of the] employee meets all criteria of the program and provided that the city manager approves the participation of the [family member of the] employee and that the employee is identified as being an employee of the city in applicable documents.

Similarly, the Miami-Dade County Code of Ethics at § 2-11.1 (c)(5)(6), allows otherwise qualified family members to participate in single-family mortgage loan programs as long as the employee of the family member does not *participate* “in the administration of said single-family mortgage loan program.”

Consequently, based on the aforementioned set of facts and local ethics codes, your mother’s employment status with the city does not prevent you from participating in the First Time Homebuyer’s Down Payment Assistance Program under the city code—provided that you meet all criteria of the program, the city manager approves your participation, your mother’s employment status with the DCD is disclosed in all relevant documents, and your mother does not participate in the administration of your loan.

If you have further questions, please do not hesitate to contact me or Victoria Frigo, Staff Attorney, at 305 579-2594.

Sincerely,



ROBERT MEYERS
Executive Director

c: Alfredo Duran, Deputy Director
City of Miami Department of Community Development
444 SW 2nd Ave., 2nd Floor
Miami, FL 33130
email at ADuran@miamigov.com