

Frigo, Victoria (COE)

From: Centorino, Joseph (COE)
Sent: Thursday, May 31, 2012 2:57 PM
To: Frigo, Victoria (COE)
Cc: Murawski, Michael P. (COE)
Subject: INQ

Please enter the following as an INQ:

On Wednesday, May 30, I received a telephone inquiry from Commissioner Jeanette Gatto of Sunny Isles Beach. She called asking for my opinion regarding an invitation she received for herself and her husband to attend a private dinner sponsored by the developers/owners of the Acqualina resort, a newly-opened resort hotel/condo in the City.

Ms. Gatto provided background information indicating that the Acqualina opened within the past several months, having received all necessary approvals from the City of Sunny Isles Beach. Another project planned by the same owners has received approvals from the City that will permit construction in the near future of this second resort under a different name. Ms. Gatto related that she and other city officials recently attended an open house that was extended to others in the community, approximately 200, to view the interior of the Acqualina, and that the guests were provided with complimentary drinks and food, as well as a take-home designer pillow, which she believed to exceed \$100 in value. She indicated that she intended to declare the latter as a gift on disclosure forms, which I agreed was the appropriate way to handle it.

Her inquiry was in connection to the private dinner, scheduled for next week, which she said had been extended to the Mayor, City Commissioners, City Attorney, City Manager, and other high-level city administrators. She related that the invitation was only to city officials. She said it had no public purpose other than to express the "appreciation" of the developers/owners of the Acqualina and the other unconstructed project to city officials for the way in which the projects had been received by the city.

She did not have a lot of specific information about the dinner, but did expect it to be something fairly lavish that would easily exceed \$100 per person in value. She said she was concerned about whether it was appropriate for her and her husband to accept it.

I opined that, in view of the fact that the providers of the benefit had a significant financial stake in past and pending city projects; that city approvals had been given for a recently completed project as well as upcoming construction project; that there would likely be future city approvals during the construction phase of the next project; that no other community members outside of city officials were invited to the dinner; and that there was no known public purpose for such a dinner other than to express "appreciation" to city officials in connection with favorable actions of the city government towards the providers, it would not be appropriate for her or other city officials to attend and participate in the dinner. I cited to her Section 2-11.1(e)(3), pursuant to which no city employee or official may "accept or agree to accept from another person or entity, any gift for or because of: (a)An official public action taken or to be taken, or which could be taken; (b)A legal duty performed or to be performed, or which could be performed..." Under the facts presented, I told her that it appeared that the "appreciation" being extended was done in connection with official or legal duties performed or to be performed by city officials, and, therefore, that the planned dinner could be found to be in violation of the Miami-Dade County Ethics Code. While the previous "open house" event, together with the gift of a designer pillow, raises somewhat similar concerns, that event can be distinguished based on its being a community event intended to promote the opening of a significant project in the city, and its having included many non-governmental participants. She agreed to follow my recommendation regarding the upcoming dinner.

Following the latter conversation, I called City Attorney Hans Ottinot. The reason for the call was to register my concerns over the possibility that he and other Sunny Isles City officials might be about to engage in activity that could

be in violation of the Ethics code. Mr. Ottinot acknowledged and confirmed the general nature of the dinner that Commissioner Gatto had revealed. However, he strongly objected to my opinion that it could violate any ethics ordinances. He suggested that it was necessary in a small town for the officials to “build relationships” with major developers and other persons of similar stature in the community, and that the dinner was in no way a quid pro quo for any official or other action by city officials that had been taken or could be taken. He did acknowledge that, at the least, the dinner would need to be disclosed as a gift in excess of \$100 by the officials who attended. I told him that I welcomed his opinion on the matter, but that nothing he said had changed my opinion about the nature of the dinner and that it would be appropriate for him to discuss my concerns with the other possible attendees. I did not reveal to him that the source of my information, and suggested that I would be receptive to his providing further information that he felt might change my opinion.

Today, Thursday, May 31, I received a telephone message from Commissioner Gatto thanking me for the advice that I provided and informing me that she had herself related our conversation to the City Attorney.

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