

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Monday, June 24, 2013 3:07 PM
To: 'Pepe, Thomas F.'
Subject: INQ 13-154 City of South Miami Planning Board Member

Mr. Pepe,

A recently appointed City of South Miami Planning Board member may serve on the board at the same time that his employer, Bermello, Ajamil & Partners, Inc., (B & A), has a contract with the city.

The City of South Miami has entered into a professional services agreement with B & A, a private architectural and engineering firm. The board member has stated that he/she is a salaried employee with no financial interests in B & A equal or greater than 10%. It is unclear whether any of the projects overseen by B & A through this city contract will come before the planning board.

B & A is not prohibited from contracting with the city because the B & A employee who serves as a planning board member has no financial interests in B & A. (City of South Miami Ethics Code at Sec. 8A-1 (d).) A financial interest is defined as 10% or more. (City of South Miami Ethics Code at Sec. 8A-1 (b)(8).)

However, under the City of South Miami Ethics Code at Sec. 8A-1 (f), the board member must file a sworn statement disclosing his/her employment and lack of a financial interest with the clerk of the city.

Additionally, under Sec. 8A-1 (i), the board member cannot disclose confidential information to B & A that he/she may receive as a result of his/her board service. At Sec. 8A-1 (l)(2), he/she may not appear before any city agency or board on behalf of B & A.

Finally, under the County Code at Sec. 2-11.1 (v), the board member may not vote on any matters affecting B & A if he/she would be directly affected by the vote.

Sincerely,

VICTORIA FRIGO, SENIOR STAFF ATTORNEY

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From: Pepe, Thomas F. [<mailto:TPepe@southmiamifl.gov>]
Sent: Friday, June 21, 2013 10:47 AM
To: Frigo, Victoria (COE)
Subject: City of South Miami - Ethics Question

A member of the city's planning board has the following question:

- I was appointed to the City of South Miami Planning Board earlier this month (June 2013)

- I am a salaried employee of Bermello, Ajamil & Partners, Inc., an architectural and engineering professional services firm
- I do not have a "controlling financial interest" in Bermello, Ajamil & Partners, Inc. as defined in Sec. 8A-1.(b)(8)
- The City of South Miami is seeking to execute a Professional Services Agreement with Bermello, Ajamil & Partners, Inc. for Miscellaneous Services (i.e., a Continuing Services Agreement) for no specific or particular project.
- With the execution of the PSA, Bermello, Ajamil & Partners, Inc. would be employed by the City of South Miami; **not** by a private entity/firm/developer "of a mixed use development project in the City of South Miami."
- There is no guarantee and/or expectation that the work to be performed by Bermello, Ajamil & Partners, Inc. **for the City of South Miami**, if any, will "at some point in the process.....go before the Planning Board for approval."

Is this a violation of MDC ethics ordinance or the city's Conflict of Interest and Code of Ethics Ordinance, Sec. 8A-1?

Very truly yours,

Thomas F. Pepe

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