

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Tuesday, July 16, 2013 12:01 PM
To: 'tpepe@southmiamifl.gov'
Cc: Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE)
Subject: Lobbyist Registration (INQ 13-174)

Mr. Pepe,

In the scenario you presented, the person who *represents* an individual who is seeking to encourage the passage or denial of an application, where the representative is *not* being compensated in cash or in kind, *is nevertheless required to register as a lobbyist*, as per the County Code at Secs. 2-11.1 (s)(1)(b) and (s)(2).

The *representative* cannot rely on the exception to registering under the County Code at Sec. 2-11.1 (s)(3)(b) because that exception is for the person herself who is appearing in her individual capacity, not the person's *representative*.

You must employ the County's lobbying ordinance, not the City's, because the County's lobbying ordinance is stricter (*i.e.*, captures more individuals within its definition) than the City's. Specifically, the County Code at Sec. 2-11.1 (s)(1)(b) includes within the definition of "lobbyist" anyone "employed or retained by a principal." Absent from the County's definition is the requirement that *the lobbyist be compensated*. On the other hand, the City of South Miami Code at Sec. 8A-5 (b)(1) relaxes the definition of lobbyist to only those employed or retained by a principal "for financial compensation, which includes non-monetary compensation of similar value...."

Because you are not able to use the City's definition of lobbyist, you cannot rely on the City exception found at Sec. 8A-5 (b)(1)c—"Lobbyist' shall exclude any person who only appears as a representative of those identified in subsection (e)."

Please feel free to contact me if I can be of further assistance.

Sincerely,

VICTORIA FRIGO, SENIOR STAFF ATTORNEY

Direct Phone: 305 350-0601
Main Number: 305 579-2594
Fax: 305 579-0273



19 West Flagler St., Suite 820
Miami, FL 33130

Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure.

From: Pepe, Thomas F. [<mailto:TPepe@southmiamifl.gov>]
Sent: Friday, July 12, 2013 10:32 AM
To: Frigo, Victoria (COE)
Cc: Menendez, Maria M.; Brimo, Christopher
Subject: Lobbyist - Request for ethic's opinion

The City of South Miami has a lobbyist ordinance. It is my opinion that, under the City's ethic's code, a representative of the individual who is individually seeking to encourage the passage or denial of an application where the representative is not being compensated in cash or in kind, would not be required to register. However, the County's ethics code on lobbying is stricter in many respects than the City's ordinance. Under the County code of ethics, would a representative of an individual under the forgoing circumstances, be required to register?

The following is the basis of my opinion and the basis for it as to the City's ordinance:

If he was "...employed or retained, **for financial compensation**, which includes **non-monetary compensation of similar value...**" he would need to register. However if he is a representative of the individual who is seeking to encourage the passage or denial of something, and he is not being paid in cash or in kind, then he would fall under the following exception:

"Lobbyist" shall **exclude** any person who only appears as a **representative** of those identified in **subsection (e)**.

(e) *Exceptions to registration.* The following persons will be **exempt** from the provisions of this section:

(1) Any person who only appears in his or her **individual capacity** at a public hearing before the city commission, board, committee, agency meeting, and has **no other communication** with the city personnel, for the **purpose of self-representation without compensation** or reimbursement, whether direct, indirect, or contingent, to express support of or opposition to any item, **shall not be required to register**

Thank you.

Very truly yours,

Thomas F. Pepe

City Attorney
City of South Miami
1450 Madruga Avenue, Ste 202,
Coral Gables, Florida 33146
Tel: (305) 667-2564
Fax: (305) 341-0584
E-mail: tpepe@southmiamifl.gov

ATTENTION: This e-mail may contains PRIVILEGED AND CONFIDENTIAL INFORMATION intended only for the use of the addressee named above. If you are not the intended receiver, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone, call collect if outside of your area code and delete this e-mail. We will reimburse you for the cost of your long distance call. Thank you. Please also note: All e-mails to and from this e-mail site are kept as a public record. Your e-mail communications, including your e-mail address may be disclosed to the public and media at any time pursuant to Florida Statutes, ch. 119.