



**MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST**

January 31, 2013

Hon. Matti Herrera Bower
Office of the Mayor
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139
Miami, FL 33128

Dear Mayor Bower:

This opinion is provided in response to your recent inquiry regarding a pending proposal to establish a comprehensive policy for the City of Miami Beach regarding use and distribution of complimentary tickets to events and productions occurring at city-owned venues and/or city-sponsored events. The request for this opinion was made by you in light of the adoption in 2012 by the Miami-Dade Commission on Ethics and Public Trust of "Guidelines and recommendations regarding 'public benefit' clauses in certain government contracts," as well as an addendum to said guidelines and recommendations in which further elaboration and explanation were provided by the Commission concerning permissible public purposes and uses for such public benefits.

First, we recognize that in creating such a policy, the City of Miami Beach would be addressing in a comprehensive way many of the issues which arise in connection with its receipt of complimentary tickets intended to be used for public purposes. We applaud this effort. In addition, inasmuch as the proposed new policy in large part mirrors the work of the Ethics Commission in creating guidelines in this same area, we are appreciative of the City's efforts to come up with a policy that comports with those guidelines.

For the most part, we find the proposed guidelines to be useful and beneficial to the protection of the public interest in connection with the distribution of public resources. There are, however, a couple of issues raised by the proposed policy that need to be addressed to insure that the policy falls within the guidelines of the Ethics Commission's recommended policy, which is based upon the requirements of the Miami-Dade County Conflict of Interest and Ethics Ordinance, made applicable by County Charter to all municipalities within Miami-Dade County. Each of these issues is described below.

- 1) In the sixth introductory paragraph to the resolution establishing the new Miami Beach policy, it is stated that "...public purpose is further served via the distribution of tickets to exemplary City employees and other notable members of the community..."

The provisions in the Ethics policy which correspond to the language cited above are contained in Section B. 5. of the Ethics Commission Addendum. The latter section refers to distribution of these benefits to "a. Employees, as part of an employee recognition program with defined criteria; b. Residents who have made special contributions to the community, as established by defined criteria."

We suggest that, in order to bring the Miami Beach policy clearly within the Commission's suggested policy, the above language in the resolution be amended by deleting the words "exemplary City employees and other notable members of the community" and replacing them with "City employees officially recognized for their exemplary service and members of the community officially recognized for making special contributions to the public welfare." Of course, it is also a permissible public purpose to distribute such benefits to the general public on a first-come, first-serve basis.

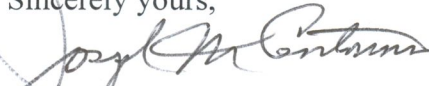
- 2) #4 of Exhibit "A" of "Acceptable 'Public Purpose' Uses (By Category) of CMB Tickets," attached to the City's resolution, lists "Monitoring and evaluation of City venues and the quality of performances therein (in particular, attendance at opening day events at City-owned venues), and/or monitoring and evaluation of the value of City-sponsored events and their compliance with City policies, agreements and other requirements." There are corresponding provisions cited below which were adopted by the Ethics Commission in its Addendum, but these provisions do not create as broad an allowance for the distribution of public benefits as the City's proposal appears to do.

A.12.i. of the Addendum recognizes "Assess facility needs, proposed changes and constituent concerns in response to a documented complaint specifically addressed to the attendee." This would not justify an open-ended invitation to any public official to attend any event for the purpose of "monitoring" the venue, unless there were a specific issue brought to the attention of that official which provided a reasonable basis upon which to attend an event, notwithstanding that it is likely that most such complaints could be dealt with without attending the event itself. Without such a specific issue to deal with, the attendance at an event for "monitoring" purposes would likely be considered to be outside of the guidelines approved by the Ethics Commission.

A.12.j. of the Addendum would permit "Attending the opening day game or performance of a County/City-owned facility." This was included at the time because of the opening of the Marlins Stadium, an event that would certainly justify the attendance of public officials at the opening ceremonies for such a facility. It was clearly intended for "facility" openings, however, not for the opening night of every theatrical event or sports series. Such a broad interpretation would render the rest of the policy meaningless. It is not a proper public purpose to provide public officials with opening night tickets to every performance event at a publicly-owned facility.

I hope that this has provided you with a better understanding of the County Ethics policy, such that Miami Beach officials can be guided toward a policy that is consistent with that of the Ethics Commission. Please do not hesitate to call me or my staff if you have further questions.

Sincerely yours,



Joseph M. Centorino

Executive Director and General Counsel

Miami-Dade Commission on Ethics and Public Trust

cc: Jose Smith, Esq., Miami Beach City Attorney