

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Monday, August 05, 2013 1:29 PM
To: Haage, Oriol (RER)
Cc: Goolsby, Michael L. (RER); Barzaga, Amador (RER); Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE)
Subject: RE: Lobbying (INQ 13-192)
Attachments: RQO 04-33 Danger.pdf; RQO 12-09 Carreno.pdf

Mr. Haage,

Plans expeditors and non-licensed individuals representing others *may be required to register as lobbyists* when communicating with building inspectors or plans examiners, depending on the circumstances.

In general, interactions with County staff that are ministerial in nature, such as filing permit applications, obtaining documents, or requesting information about a permit are not considered lobbying. Also, individuals who are advocating for decisions that can be made at the sole discretion of an individual County employee (*i.e.*, decisions that are not determined by a voting body) are probably *not* lobbying.

However, individuals who advocate for matters that will foreseeably be decided by any of the County's commissions, boards, committees, or by the Mayor are required to register as lobbyists. *See* County Code at Sec. 2-11.1 (s).

Additionally, if the person who is advocating was also previously employed by the County within the past two years, he or she is held to stricter standards than lobbyists in general. Individuals previously employed by the County within the past two years are prohibited from performing any activities intended to influence *any official determination, regardless of whether the determination will foreseeably be decided or recommended* by any of the County's commissions, boards, committees, or the Mayor. *See* County Code at Sec. 2-11.1 (q).

Numerous examples of lobbying as it relates to former County employees are contained in an ethics opinion given to Charles Danger in 2004, which is attached. See also a more recent opinion given to Charles O. Carreño, a retired Miami Beach employee, that draws further distinctions between former government employees and lobbyists in general.

If you have additional questions about a particular fact pattern, please feel free to contact our office.

Sincerely,

VICTORIA FRIGO, SENIOR STAFF ATTORNEY

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From: Haage, Oriol (RER)
Sent: Wednesday, July 31, 2013 2:30 PM

To: Frigo, Victoria (COE)
Cc: Goolsby, Michael L. (RER); Barzaga, Amador (RER)
Subject: Lobbying

Good afternoon Ms. Victoria Frigo,

Do plans expeditors or non-licensed individuals representing licensed building contractors required to register as a lobbyist when communicating with building inspector or plans examiner on behalf of homeowners, contractors or developer for profit? Does the section below apply for these individuals?

Miami Dade County

(s) Lobbying.

(1) (a) As used in this section, "County personnel" means those County officers and employees specified in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

(b) As used in this section, "Lobbyist" means all persons, firms, or corporations **employed or retained by a principal who seeks to encourage the passage, defeat, or modifications** of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) **any action, decision or recommendation of County personnel** during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or **a County board** or committee. **"Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities.** The term "Lobbyist" **specifically excludes the following persons: attorneys** or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities **during publicly noticed** quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; **any person who only appears as a representative of a neighborhood association without compensation** or **reimbursement for the appearance**, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.

(2) **All lobbyists shall register with the Clerk of the Board of County Commissioners within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to so register shall:**

(a) Register on forms prepared by the Clerk;

(b) State under oath his or her name, business address and the name and business address of each person or entity which has employed said registrant to lobby. If the lobbyist represents a corporation, the corporation shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership, or trust. Registration of all lobbyists shall be required prior to January 15 of each year and each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. The fee for annual registration shall be four hundred and **ninety dollars (\$490.00)**. Every registrant shall be required to state the extent of any business or professional relationship with any current person described in subsection (b)(1). The registration fees required by this subsection shall be deposited by the Clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the public. Notwithstanding the foregoing, fifteen (15) percent of future funds generated by lobbyist registration fees after the effective date of this ordinance shall be deposited into a separate account, and shall be expended by the

Ethics Commission for the purposes of educational outreach, the rendering of advisory opinions and enforcement of the provisions of [Section 2-11.1\(s\)](#) relating to lobbyists. There shall be no fee required for filing a notice of withdrawal and the Board of County Commissioners may, in its discretion, waive the registration fee upon a finding of financial hardship.

(c) **Prior to conducting any lobbying**, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. **The principal and the lobbyist must also submit a joint affidavit stating that the principal has not offered and the lobbyist has not agreed to accept any contingency or success fees as defined in subsection (s)(7).** Failure of a principal to file the required forms may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form with the Clerk of the Board at the point in time at which a lobbyist is no longer authorized to represent the principal.

(d) **Each lobbyist shall, within sixty (60) days after registering as a lobbyist, submit to the Clerk of the Board a certificate of completion of an ethics course offered by the Miami-Dade County Commission on Ethics and Public Trust ("Ethics Course").** Lobbyists who have completed the initial Ethics Course mandated by the preceding sentence and have continuously registered as a lobbyist thereafter shall be required to complete a refresher Ethics Course every two years. Each lobbyist who has completed a refresher Ethics Course shall submit to the Clerk of the Board a certificate of completion within sixty (60) days after registering as a lobbyist. The Ethics Course shall include, but not be limited to, a review of the following topics: the Conflict of Interest and Code of Ethics Ordinance; the Sunshine Law; and the Public Records Law. The fee for the Ethics Course shall be one hundred dollars (\$100.00). The registration fees required by this subsection shall be deposited into a separate account, and shall be expended by the Ethics Commission for Ethics Courses and related costs. The requirements of this subsection relating to the Ethics Course shall not be applicable to any municipal lobbyist in Miami-Dade County unless said municipality has adopted an ordinance providing for ethics training of lobbyists, and has entered into an interlocal agreement with the County authorizing the Ethics Commission to provide the Ethics Course provided for in this subsection. The Executive Director of the Ethics Commission may waive the Ethics Course requirement for a particular lobbyist when he or she determines that the lobbyist has taken an initial or refresher Ethics Course offered by a municipality which satisfies the requirements of this subsection.

(3) (a) Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist.

(b) Any person who only appears in his or her individual capacity 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 as a lobbyist. A principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item, shall register with the Clerk as required by this subsection, but shall not be required to pay any registration fees.

Thank you.

Oriol Torres Haage, Training and Certification Officer
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