

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Tuesday, August 13, 2013 2:05 PM
To: 'kellyreid1@bellsouth.net'
Cc: Steinback, Robert (COE); Diaz-Greco, Gilma M. (COE); Centorino, Joseph (COE)
Subject: Quasi Judicial Hearings (INQ 13-200)
Attachments: votingconflictmemo.pdf

Dear Councilwoman Reed,

You asked about potential voting conflicts as a Town Councilwoman in Bay Harbor Islands. As you explained below, your Town Council serves as both a legislative body and as a quasi-judicial body.

When your Town Council acts as a quasi-judicial body, ruling on the rights of an individual citizen or entity, you are subject to state laws and should follow the advice of your Town Attorney.

When you are voting on matters that affect the citizens of your town in general, you are serving in a legislative capacity and are subject to the voting conflict ordinance under the County Ethics Code at Sec. 2-11.1 (d).

To clarify what constitutes a voting conflict in your legislative capacity, you cannot vote on matters if you have a certain relationship with the person or entity bringing the matter before your Council (*i.e.*, officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor) or if you would, directly or indirectly, profit or be enhanced by the vote. The attached memo further outlines your responsibilities related to publicly announcing the conflict, absenting yourself from that portion of the meeting, and disclosing the nature of the conflict in writing within 15 days following the vote.

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.

-----Original Message-----

From: Kelly Reid [mailto:kellyreid1@bellsouth.net]
Sent: Thursday, August 08, 2013 5:31 PM
To: Steinback, Robert (COE)
Subject: Quasi Judicial Hearings

Robert,

Thank you for finding out if your office is able to help me sort out this legal question. It is basically this.

I have raise my right hand, been sworn in, and given my opinions at almost every quasi judicial planning and zoning meeting in Bay Harbor Islands this year. I was elected to Council in April, 2013. Recently, attorneys for the developers have "preserved their objection" to my comments as "inappropriate."

I did speak to the town attorney before and after this 7/16/13 meeting to discuss the consequence, if any. Our town attorney explained to me that if the decision of the P&Z is appealed to the Town Council, on which I sit as a kind of judge able to vote to reverse their decision, the appellants may move to strike my vote because they claim I would have exhibited a bias by stating my opinion at the P&Z meeting in question. He cited some case law like Schneider and Jennings. He never advised me to refrain from speaking, but did caution me that an objection like this could be brought up.

I want to know if they have a valid argument and if they can compel me to step off the dais in the event of an appeal. The way I understand it is I am only legally bound to recuse myself if I stand to receive direct financial gain (or loss) in the transactions question. Otherwise, I believe am legally bound to vote if I am in attendance. They also may do the same at a regular council meeting if the council is asked to vote if the project may proceed with the acquisition of TDRs (transfer of development rights.)

I hope that's clear. I'm happy to clarify further. The meeting was video taped. The DVD is marked 7/16/13. The two times I listed, about 37:00, and 1:10, were approximately when the respective attorneys made their statements regarding their objections. Two separate projects were reviewed.

Thank you!

Kelly Reid
Town Council Member
Bay Harbor Islands
305-335-1087