
From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, August 06, 2014 11:31 AM
To: Sanchez, Rodzandra (COE)
Subject: Lorena Bravo, Acting City Attorney, City of Hialeah - Ethics Opinion (conflicting employment) INQ 14-190

INQ 14-190

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, August 06, 2014 11:31 AM
To: 'Bravo, Lorena'
Cc: Centorino, Joseph (COE)
Subject: Lorena Bravo, Acting City Attorney, City of Hialeah - Ethics Opinion (conflicting employment) INQ 14-190

Dear Ms. Bravo:

You requested an opinion regarding possible conflicting employment. As explained below, our opinion is that **with limitations**, a city of Hialeah (Hialeah) plans examiner employed by Hialeah's Building Department may also be hired as an employee of Hialeah's Construction Management Department as the city's architect of record for the city's public works projects.

As background, you advise that Hialeah has plans for public projects constructing city buildings and facilities. In order to save costs, Hialeah would like to hire a current employee who is a licensed architect, and is employed as a plans examiner in the Building Department, as the architect of record for Hialeah's public projects. As the city's architect of record, the employee would be hired as a city employee (rather than through his privately owned business) to work under the supervision of the city's Director of Construction Management. The Construction Management Department, a separate department from the Building Department, oversees all aspects of design and construction of the Hialeah's building and facilities projects with few exceptions, such as roadway improvement. The employee would be compensated by the city at an overtime rate so that his work as the city's architect of record does not interfere with his regular duties as a plans examiner in the Building Department.

Given the facts described here, it is our opinion that the employee's dual roles as plans examiner and architect of record would not impair his independence of judgment in the performance of his public duties as long as certain **limitations** would be put in place. See Section 2-11.1(j) of the County Ethics Code.

These limitations include that the employee may not review and approve the plans he submits to the Building Department as the city's architect of record, that he may not supervise anyone that will be reviewing the plans he submits to the Building Department as the city's architect of record, that a city employee **other than** his fellow plans examiners (for example a Chief Inspector, or the Building Official) review and approve the plans he submits as the city's architect of record.

This opinion is based on the facts presented. If these facts change, please contact us. Furthermore, this opinion construes the Miami-Dade County Ethics Code and it not applicable to conflicts under state laws.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



Miami-Dade Commission on Ethics and Public Trust

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From: Bravo, Lorena [<mailto:LBravo@hialeahfl.gov>]

Sent: Monday, August 04, 2014 2:21 PM

To: Diaz-Greco, Gilma M. (COE)

Subject: RE: Ethics Question

Hello.

Thank you for your email.

He is not the only building plans examiner. The plans examiner for building would either be someone else qualified to review the plans or the chief building inspector, who is also qualified to review plans. There are other reviewers qualified to examine plans for other disciplines; electrical, structural, roofing, mechanical and plumbing. As the architect, he would not be involved in the review or inspection of any portion of his work. Generally, the Building Official is not involved in either plans examination or inspection. He delegates these duties to his Chiefs and subordinate plans examiners/inspectors.

Take care,

Lorena E. Bravo, Esq.
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From: Diaz-Greco, Gilma M. (COE) [<mailto:GDIAZGR@miamidade.gov>]

Sent: Monday, August 04, 2014 1:59 PM

To: Bravo, Lorena

Subject: RE: Ethics Question

Dear Ms. Bravo:

I have been reviewing your reply. I understand that in this employee's proposed employment as city architect he would work under the supervision of the Director of Construction Management which is a separate department than the Building Department. However, we are still unclear as to who in the Building Department (where this employee currently works) would review and sign off on the plans he submits in his role as city architect. It is our understanding that this employee is currently a plans examiner in the Building Department. As such, it is he who would normally review plans submitted to the city. If he were to also serve as the City architect, who in the Building Department would be responsible for reviewing the plans he submits? Would it be the building official, the Chief Inspector; would it be a close colleague of his?

Thanks and best regards,

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Bravo, Lorena [<mailto:LBravo@hialeahfl.gov>]
Sent: Friday, August 01, 2014 5:19 PM
To: Diaz-Greco, Gilma M. (COE)
Cc: Centorino, Joseph (COE)
Subject: RE: Ethics Question

Hello, Mimi.

I was out the latter part of the week and had to deal with urgent issues on my return to work Monday. I apologize for not replying earlier to your request for additional information.

The employee performing dual functions would be work under the supervision of the Director of Construction Management, a separate department from Building, in his performance as an architect, and under the supervision of the Building Official in his performance as a plans examiner. The Construction Management Department oversees all aspects of design and construction of the City's building and facilities projects with few exceptions, such as roadway improvement projects.

Thank you in advance for your response.

Take care,

Lorena E. Bravo, Esq.
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From: Diaz-Greco, Gilma M. (COE) [<mailto:GDIAZGR@miamidade.gov>]
Sent: Thursday, July 24, 2014 9:46 AM
To: Bravo, Lorena
Cc: Centorino, Joseph (COE)
Subject: RE: Ethics Question

Ms. Bravo,

It was a pleasure speaking with you yesterday.

I have discussed this matter with Joseph Centorino, our Executive Director. We would like to obtain some additional information from you. Who in the building department would review the work of this employee who will be serving both as a plans examiner and the architect of record for the city's building projects? Would a director or supervisor review the plans he submits in his role as architect for the city; would it be a close colleague of his?

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Bravo, Lorena [<mailto:LBravo@hialeahfl.gov>]
Sent: Wednesday, July 23, 2014 5:38 PM
To: Diaz-Greco, Gilma M. (COE)
Subject: RE: Ethics Question

Good afternoon, Mimi.

Thank you for calling this afternoon. Based on our conversation I have obtained the additional information you requested. The employee in question is employed as a building plans examiner. He is one of four building plans examiner. We have other examiners for other disciplines/plans such as mechanical, electrical, roofing and structural plans. He does not supervise any other plans examiner. He is a registered architect in the State of Florida. He does have private clients for whom he provides professional services on projects not within the jurisdiction of the City of Hialeah.

Thank you for your attention to this inquiry.

Take care,

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From: Bravo, Lorena
Sent: Wednesday, July 23, 2014 12:18 PM
To: Diaz-Greco, Gilma M. (COE)
Subject: RE: Ethics Question

Good morning, Ms. Diaz-Greco.

Have you had an opportunity to review my question below?

Thank you.

Take care,

Lorena E. Bravo, Esq.
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From: Ramos, Miriam S. (COE) [<mailto:MSRAMOS@miamidade.gov>]
Sent: Monday, July 21, 2014 11:43 AM
To: Bravo, Lorena
Cc: Diaz-Greco, Gilma M. (COE)
Subject: RE: Ethics Question

Good morning Lorena,

I am copying our Staff Attorney Mimi Diaz-Greco, who handles the issuing of opinions for our office. She will be in touch.

Regards,

Miriam S. Ramos, Esq.
Deputy General Counsel



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From: Bravo, Lorena [<mailto:LBravo@hialeahfl.gov>]
Sent: Monday, July 21, 2014 10:45 AM
To: Ramos, Miriam S. (COE)
Subject: Ethics Question

Good morning, Ms. Ramos.

The City has plans for public projects that require the construction of buildings and facilities. It has an employee in-house within the building department who works as a plans examiner but is also a licensed registered architect. In order to save on costs, the City is considering having the employee act as architect of record. He would be compensated at overtime rate so that the work does not interfere with his regular duties. If the employee does not review any portion of his work and does not supervise any other plans reviewer in the building department, would this scenario present a conflict?

Thanks for your help in sorting through this.

Take care,

Lorena E. Bravo, Esq.
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