



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

September 17, 2018

Mr. Charles Sims
Chair, Affordable Housing Advisory Board
Vice-Chair, Affordable Housing Trust Fund Board of Trustees
Developer, Miami-Dade County's Infill Housing Program
5432 N.W. 193 Lane
Miami, FL 33055
Charlessims1@gmail.com

Re: **RQO 18-03** Charles Sims/ Conflicts of Interest

Dear Mr. Sims:

At a public meeting on September 12, 2018, the Miami-Dade Commission on Ethics & Public Trust (COE) opined that you do not have a conflict of interest in your service in the Affordable Housing Advisory Board (AHAB), the Affordable Housing Trust Fund Board of Trustees (AHTF) and your status as Infill Housing developer for Miami-Dade County's Infill Housing Program, as long as you abide by the limitations imposed in the Miami-Dade County Conflict of Interest and Code of Ethics ordinance which prohibits a board member from deriving any direct or indirect benefit from his County service.

While you did not seek any funding from the County for your Infill lot located at 2721 N.W. 44th Street, Miami, Florida, you may not apply or receive any County funding in the future for the development of your Infill property.¹ In addition, you may not participate or vote on any matters before AHAB or AHTF regarding the removal of impediments to affordable housing which affect *your* specific Infill property.

BACKGROUND

You requested an opinion regarding your ability to continue serving on AHAB and AHTF while you participate in the Infill Housing Program administered by the County's Department of Public Housing and Community Development (PHCD). You are a real estate professional and developer of affordable housing. Recently, you contracted with Miami-Dade County through your company, SIMCAR DEV, LLC (SIMCAR), to develop affordable housing through the County's Infill Housing Program. You are the Chairman of AHAB and Vice-Chair of AHTF. These boards,

¹ If at any time a member receives or applies for County funding through AHAB, the member shall automatically forfeit his board position. Section 17-106 (e), Miami-Dade County Code

in their advisory capacity, make recommendations to the Board of County Commissioners (BCC) regarding affordable housing initiatives.

Specifically, AHAB is required by State law to submit a triennial report to the BCC, which includes the board's recommendations regarding local housing incentive strategies to facilitate affordable housing development, in support of the County's efforts to continually receive funding. AHTF serves as the permanent, renewable source of revenue to meet, in part, the housing needs of County residents. The AHTF's Revolving Loan Fund (RLF), used in making loans to developers, is controlled by an outside administrator, not the board.

Neither of these boards allocates funding to individual developers, however, they seek input from developers, including Infill developers, regarding the general total allocation of funding and the release or removal of impediments to affordable housing affecting *all* developers.

The Infill Housing Program is a County program administered by PHCD which allows affordable housing developers to purchase County lots and develop affordable homes to be sold to low and low-moderate income families. On or about September 5, 2018, SIMCAR was conveyed an Infill lot.²

In a previous formal opinion,³ the Ethics Commission concluded that a developer and investor in affordable housing could not serve on the AHAB because he *would have the opportunity* to seek funding for his affordable housing projects, contrary to the language of the enabling ordinance which requires an *actual* request and application for County funding.⁴ Consequently, the Ethics Commission modifies RQO 08-02 to reflect that concurrent service on these boards and contracting with the County in the Infill Housing Program is not prohibited as long as the board member neither receives nor applies for County funding for his Infill housing development.

Furthermore, the County Ethics Code allows a board member to transact business with the County but not with any department or agency which is subject to the regulation, oversight, management, policy-setting or quasi-judicial authority of the board in which he or she serves.⁵ Since neither AHAB nor AHTF regulate, oversee, manage, set policy or exercise any quasi-judicial authority over PHCD (the County department in charge of the Infill Program), you are not prohibited from participating in the Infill Program.

In addition to your business relationship with the County, it is noted that while serving on the boards, you may be asked to participate and/or vote on matters which may affect your financial interest in your Infill development, for example, recommendations on the modification or removal of impediments to affordable housing which benefit all affordable housing developers, including yourself.

² Agenda Item No. 11(A)(5), BCC Meeting September 5, 2018

³ RQO 08-02

⁴ Section 17-106 (e), Miami-Dade County Code

⁵ Sections 2-11.1(c)(3) and (d), County Ethics Code

The County Ethics Code prohibits a board member from participating or voting on any action which directly or indirectly benefits himself and/or any entity in which he has a financial interest.⁶ Consequently, you may participate and vote on matters regarding funding initiatives since you did not and will not seek any County funding. Regarding participation on matters involving the removal of impediments, you may participate to the extent the board's recommendations affect all affordable housing initiatives and not *your* Infill property specifically. In other words, you should not participate in any discussions on these boards regarding an impediment which affects and/or benefits the development of *your* Infill lot. In the event of a conflict, you must recuse yourself; announce the nature of your conflict; absent yourself from the item; and, file a written disclosure in accordance with Florida Statutes.⁷

Finally, you must also refrain from the following actions prohibited by the County Ethics Code: appearing before your County boards to make presentations or seek any benefit on behalf of a third party; using your official position to secure special privileges or exemptions for yourself or others; and, disclosing confidential information for your personal gain or benefit.⁸

If you have any questions regarding this opinion, please contact the undersigned or Staff Attorney Martha D. Perez at (305) 579-2594.

Sincerely Yours,



JOSÉ ARROJO
Executive Director

⁶ Sections 2-11.1(v) and (n), County Ethics Code

⁷ Section 112.3143, Fla. Stat.

⁸ Sections 2-11.1(m)(2), (h), (g), County Ethics Code