



MIAMI-DADE COUNTY  
COMMISSION ON ETHICS & PUBLIC TRUST

May 22, 2013

Eve A. Boutsis, Esq.  
Office of the Village Attorney  
18001 Old Cutler Road, Suite 560  
Miami, FL 33157-6416

Re: RQO 13-04  
Settlement Negotiations Stemming from Quasi-Judicial Hearings  
in the Village of Palmetto Bay

Dear Ms. Boutsis:

At a public meeting on April 11, 2013, the Miami-Dade Ethics Commission opined that attorneys, as well as their clients, may appear in the Village of Palmetto Bay in settlement negotiations stemming from quasi-judicial hearings without violating the Village Charter provision banning campaign contributors from lobbying.<sup>1</sup> The Ethics Commission reasoned that settlement negotiations springing from quasi-judicial proceedings are part of the entire quasi-judicial process. Because individuals who appear at quasi-judicial proceedings are excluded from the definition of lobbyist under the Village of Palmetto Bay lobbying ordinance,<sup>2</sup> those who appear at settlement negotiations springing from quasi-judicial proceedings are similarly excluded from the definition of lobbyist.

AS BACKGROUND, beginning in 2008, several legal actions have arisen in the Village of Palmetto Bay following quasi-judicial zoning decisions involving Palmer Trinity Private School and a charter school. In actions involving Palmer Trinity Private School, original zoning appeals have been judicially decided, but parties to the remaining unresolved civil actions are seeking to enter into mediation negotiations in order to settle the outstanding disputes. In the appeal of a zoning application involving a charter school, the matter remains pending and the parties are currently seeking to enter into a settlement agreement.

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<sup>1</sup> The Village of Palmetto Bay Charter at Sec. 7.6 (A) prohibits contributors to Village election campaigns from lobbying the Village for four years.

<sup>2</sup> The Village of Palmetto Bay Code at Sec. 2-137 (b)(2)ii excludes from the definition of lobbyist those who appear at quasi-judicial proceedings.

Attorneys as well as their clients in the aforementioned matters have appeared and participated in quasi-judicial zoning proceedings, appeals, and civil litigation by presenting facts, making arguments, and affirming statements, covenants, and concessions. Some of these same lawyers representing Palmer Trinity Private School and their clients have provided campaign contributions to seated elected officials. Similarly, a principal of the charter school has also provided campaign contributions to seated elected officials.

In regard to pending appeals and related actions stemming from the original zoning decisions as discussed above, the Ethics Commission found that the timeframe for a quasi-judicial proceeding begins prior to the matter actually being heard and extends beyond the distinct hearing period to the time at which all appeals of the decision have been exhausted.

FOR GUIDANCE, the Ethics Commission looked to a recent opinion given to a former County Attorney who was allowed to appear in eminent domain negotiations in the County without violating the County's two-year post-employment ban.<sup>3</sup> The Ethics Commission found that the former employee was excluded from the definition of lobbyist when he appeared in pre-suit meetings because these meetings were an integral part of the impending quasi-judicial proceeding.

CONSEQUENTLY, because a quasi-judicial matter is not concluded until the time for resolving the disputes stemming from the quasi-judicial hearing has expired, attorneys and their principals who made campaign contributions in the Village of Palmetto Bay and who are engaged in settlement negotiations stemming from quasi-judicial proceedings are not engaged in lobbying, as described in the Village Code at Sec. 2-137 (b)(2).

This opinion construes the Village of Palmetto Bay and Miami-Dade County Ethics Codes and is not applicable to other conflicts under Village, County, or State laws. Inquiries regarding possible conflicts under State ethics laws should be directed to the State of Florida Commission on Ethics.

If you have any questions regarding this opinion, please call the undersigned or Senior Staff Attorney Victoria Frigo at 305-579-2594.

Sincerely yours,



JOSEPH M. CENTORINO  
Executive Director and General Counsel

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<sup>3</sup> See Miami-Dade Ethics Commission Opinion RQO 11-26, to Thomas Goldstein. The County Ethics Code at Sec. 2-11.1 (q)(1) prohibits former County employees from lobbying the County for two years following County employment, but attorneys who appear at quasi-judicial hearings are excluded from the definition of lobbyist at Sec. 2-11.1 (s)(1)(b).