

April 2, 2025

Nick Kallergis, Esq., Chief Deputy City Attorney  
City of Miami Beach  
1700 Convention Center Drive, 4th Floor  
Miami Beach, FL 33139-1819

**Re: DRB24-1030 – 8, 9, and 10 Century Lane  
Design Review Board Member Conflict of Interest**

Dear Mr. Kallergis,

This firm represents the property owners of 8 Century Lane, 9 Century Lane, and 10 Century Lane (DRB24-1030) (collectively, the “Properties”). An application for the redevelopment of the Properties is scheduled for hearing before the Design Review Board (the “DRB”) on April 10, 2025. The City of Miami Beach, Miami-Dade County, and State of Florida have enacted regulations to ensure a fair and unbiased municipal decision making process. We would like to bring a voting conflict to your attention and have compiled various Miami-Dade County Commission on Ethics Opinions that address the conflict presented by the participation of one member of the Design Review Board with respect to the Properties.

**I. City, County, and State Regulations on Ethics**

The purpose of ethics regulations is to promote the public interest and maintain the respect of the people for their government. The importance of this has been recognized at all levels of government and these regulations are wholly applicable to the Design Review Board application process. The following are the key provisions of the State, County, and City regulations that should be applied to the subject applications.

The Bylaws of the DRB require compliance with Chapter 112 of the Florida Statutes. Section 112-311(5), Florida Statutes, provides:

It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have ***any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity***; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the

performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part. *[Emphasis added.]*

Additionally, Section 286.012, Florida Statutes, states:

“If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.”

The relevant sections of the Florida Statutes are attached as Exhibit “A”.

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, is found in Section 2-11.1 of the Miami-Dade County Code, (the “Ethics Ordinance”). The Ethics Ordinance prohibits certain conflicts of interest and voting conflicts to ensure fair consideration and treatment for everyone in municipal decision making. Section 2-11.1(b)(3) of the Ethics Ordinance defines “quasi-judicial personnel” as “members of the Community Zoning Appeals Board and such other boards and agencies of the County as perform quasi-judicial functions.” The Design Review Board is a quasi-judicial board engaged in decision making about zoning approvals.

Section 2-11.1(v) of the Ethics Ordinance provides that “no person included in the terms defined in subsections (b)(3)(quasi-judicial personnel) or (b)(4) (advisory personnel) shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits and if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary, or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor.” (*Emphasis added.*) The Ethics Ordinance is attached as Exhibit “B”.

## II. Conflicts of Interest of Design Review Board Member

Scott Diffenderfer serves as a member of the Design Review Board. He resides in Belle Isle and is a local realtor, specializing in Belle Isle. His publicly advertised email on the City of Miami Beach Design Review Board website is [belleislerealtor@gmail.com](mailto:belleislerealtor@gmail.com). According to his professional company profile online, he is the current Vice President of the Nine Island Avenue Condominium Association. He also previously served as President of the Belle Isle Residents Association (BIRA) from 2008-2021 and is a former Director of the organization. A copy of the Nine Island Condominium Association corporate information Exhibit “C”. Additionally, Mr. Diffenderfer’s company profile states:

As a resident of Belle Isle in Miami Beach since 2004, Scott has facilitated many record-breaking sales in the neighborhood he calls home. He remains active with the Belle Isle Residents Association where he served as president for more than a decade.

A copy of the above referenced profile information is attached as Exhibit “D”.

Over the past several years, Mr. Diffenderfer has facilitated the rental or sale of the following units on Belle Isle:

- 11 Island Avenue, Unit 1210
- 5 Island Avenue, Unit 14E
- 1 Century Lane, Unit 304 (*in 375' radius*)
- 3 Island Avenue, Unit 7J (*in 375' radius*)
- 9 Island Avenue, Unit 1006
- 20 Island Avenue, Unit 1511
- 20 Island Avenue, Unit 509
- 9 Island Avenue, Unit 911
- 9 Island Avenue, Unit T4
- 9 Island Avenue, Unit T5
- 9 Island Avenue, Unit 2001
- 9 Island Avenue, Unit 1405
- 11 Island Avenue, Unit 611
- 9 Island Avenue, Unit 407
- 9 Island Avenue, Unit 1703
- 9 Island Avenue, Unit 1415
- 9 Island Avenue, Unit 508
- 9 Island Avenue, Unit 2404
- 9 Island Avenue, Unit 604
- 16 Island Avenue Unit 4F
- 9 Island Avenue, Unit 915
- 20 Island Avenue, Unit 618
- 9 Island Avenue, Unit 1814
- 11 Island Avenue, Unit 902
- 5 Island Avenue, Unit 7D
- 9 Island Avenue, Unit 1509
- 20 Island Avenue, Unit 709
- 20 Island Avenue, Unit 1409
- 20 Island Avenue, Unit 409
- 10 Venetian Way, Unit 603
- 11 Island Avenue, Unit 2008
- 3 Island Avenue, Unit 9F (*in 375' radius*)
- 11 Island Avenue, Unit 609
- 5 Island Avenue, Unit 3D
- 16 Island Avenue, Unit 4E
- 20 Island Avenue, Unit 216
- 11 Island Avenue, Unit 1709
- 10 Venetian Way, Unit 605
- 20 Island Avenue, Unit 1517
- 11 Island Avenue, Unit 804
- 20 Island Avenue, Unit 1002
- 20 Island Avenue, Unit 1403
- 20 Island Avenue, Unit 1104
- 20 Island Avenue, Unit 315
- 20 Island Avenue, Unit 1512
- 20 Island Avenue, Unit 415
- 5 Island Avenue, Unit 15E
- 5 Island Avenue, Unit 11A
- 20 Island Avenue, Unit 202
- 1 Century Lane, Unit 504 (*in 375' radius*)
- 10 Venetian Way, Unit 2202
- 10 Venetian Way, Unit 1204
- 9 Island Avenue, Unit 1702
- 11 Island Avenue, Unit 1210
- 20 Island Avenue, Unit 516
- 9 Island Avenue, Unit 200

Currently, according to his professional company profile, he has the following property for sale:

- 1 Century Lane, Unit 505 (*in 375' radius*)
- 20 Island Avenue, Unit 1001

Additionally, according to his professional company profile, he has the following property for lease:

- 9 Island Avenue, Unit 2002
- 9 Island Avenue, Unit 702
- 20 Island Avenue, Unit 509

In Mr. Diffenderfer's case, his profession is renting and selling properties that are both adjacent to and within a 375 foot radius of the Properties. His current listing of 1 Century Lane, Unit 505, directly faces 9 and 10 Century Lane. A copy of the 375 foot radius map for the Properties is attached as Exhibit "E".

Mr. Diffenderder had previously advocated for a downzoning overlay of the single-family parcels on Century Lane and Farrey Lane. In fact, Mr. Diffenderfer offered his own support on the record during the November 18, 2022 Miami Beach Land Use and Sustainability Committee Hearing discussion of the proposed downzoning overlay for Belle Isle that would reduce the scale of development permitted on Century Lane (time-stamped at 46:30). He characterized the current zoning of the subject property as an "oversight" and stated that "nobody dreamed that anybody would try to put a 5-story single-family home on a 3,500 or less square foot lot," (a reference to 10 Century Lane). Mr. Diffenderfer went on to say, "This zoning is so bad and it was a complete oversight and the fact that no one has addressed it pisses me off." "We're also looking at a hotel where you're going to have single-family homes looming over a pool" (a reference to 8 Century Lane). He continued, "And then you have houses like this that any normal person drives by and says 'how the hell were they allowed to build that?'". Mr. Diffenderfer continued, "[I]t's one thing to allow them to build because there's hardship, but to allow them to go 5-stories up when there's no swales, no sidewalks, no landscaping, it just doesn't make any sense."

### III. Miami-Dade Commission on Ethics Advisory Opinions

In Miami-Dade Commission on Ethics Advisory Opinion 02-58, the Commission on Ethics opined that an appearance of conflict arose when the Chair of the Miami-Dade County Unsafe Structures Board, a quasi-judicial body, heard a case regarding the Lakes of the Meadows Village Homes Condominium. A copy of Ethics Advisory Opinion 02-58 is attached as Exhibit "F". Although the board member did not reside in the condominium, they did reside in the Lakes of the Meadow development, and therefore, recommended that the person abstain from chairing the meeting and voting on the issue.

"...An appearance of a conflict of interest will arise if you vote on matters involving a place where you reside and your grandparents own property. Therefore, you may abstain from chairing the meeting and voting on the issue."  
(Commission on Ethics Advisory Opinion 02-58).

In Miami-Dade County Commission on Ethics INQ 2022-73, the Commission on Ethics opined as to whether a Hialeah Councilmember could appropriately vote on a zoning decision adjacent to his residence. In particular, the Hialeah Council was considering a zoning variance request for a behavioral health center that sought to expand the size and number of patient beds by roughly 30%. A copy of Commission on Ethics INQ 2022-73 is attached as Exhibit "G".

The Commission on Ethics considered several factors in developing its opinion regarding the Hialeah zoning matter, including whether the voting official's property abuts, adjoins or is otherwise in close proximity to the property impacted by the zoning variance and whether the zoning variance would create a financial benefit or detriment to the official.

Ultimately, the Commission on Ethics recommended that the voting member abstain from the zoning decision to avoid the appearance of impropriety and thereby assure a fair proceeding free from potential bias.

#### IV. Conclusion

In the instant matter, Mr. Diffenderfer has a conflict of interest preventing him from voting on the DRB applications for the Properties given 1) the close proximity of his personal residence to the Properties, 2) his professional focus on selling and renting properties abutting and within a 375 foot radius of the Properties, 3) his formal status as a) current Vice President of the Nine Island Avenue Condominium Association and b) a former President and Director of the BIRA, and 4) the fact that he has publicly expressed his negative opinion on the record at a public committee meeting, referencing the subject matter underlying instant application.

For all of the foregoing reasons, Mr. Diffenderfer has a voting conflict and should recuse himself from the instant matters to avoid the appearance of impropriety.

Respectfully submitted,

LSN Law, P.A.

A handwritten signature in blue ink, reading "Tracy Slavens". The signature is fluid and cursive, with the first name "Tracy" and last name "Slavens" clearly legible.

Tracy R. Slavens, Esq.

Enclosures

CC: Farosha Andasheva, Esq.  
Mr. Thomas Mooney, AICP, Planning Director  
Mr. Rogelio Madan, AICP

Exhibit “A”

Relevant provisions of Florida Statutes

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## The 2022 Florida Statutes

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<a href="#">Title X</a>	<a href="#">Chapter 112</a>	<a href="#">View Entire Chapter</a>
PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS	

### **112.311 Legislative intent and declaration of policy.—**

(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

(2) It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided.

(3) It is likewise essential that the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and past or pending legislative and executive actions at every level of government. In order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures, and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions, either by direct communication with such officials or by solicitation of others to engage in such efforts, be regularly disclosed to the people.

(4) It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

(5) It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.

(6) It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.

**History.**—s. 1, ch. 67-469; s. 1, ch. 69-335; s. 1, ch. 74-177; s. 2, ch. 75-208; s. 698, ch. 95-147.





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## The 2022 Florida Statutes

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[Title XIX](#)[Chapter 286](#)[View Entire Chapter](#)[PUBLIC BUSINESS](#)[PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS](#)

**286.012 Voting requirement at meetings of governmental bodies.**—A member of a state, county, or municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may not abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under s. [112.311](#), s. [112.313](#), s. [112.3143](#), or additional or more stringent standards of conduct, if any, adopted pursuant to s. [112.326](#). If there is, or appears to be, a possible conflict under s. [112.311](#), s. [112.313](#), or s. [112.3143](#), the member shall comply with the disclosure requirements of s. [112.3143](#). If the only conflict or possible conflict is one arising from the additional or more stringent standards adopted pursuant to s. [112.326](#), the member shall comply with any disclosure requirements adopted pursuant to s. [112.326](#). If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.

**History.**—s. 1, ch. 72-311; s. 9, ch. 75-208; s. 2, ch. 84-357; s. 13, ch. 94-277; s. 19, ch. 2013-36; s. 7, ch. 2014-183.

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Exhibit “B”

Miami-Dade County Ethics Ordinance

## Sec. 2-11.1. - Conflict of Interest and Code of Ethics Ordinance.

- (a) *Designation.* This section shall be designated and known as the "Miami-Dade County Conflict of Interest and Code of Ethics Ordinance." This section shall be applicable to all County personnel as defined herein, and shall also constitute a minimum standard of ethical conduct and behavior for all municipal officials and officers, autonomous personnel, quasi-judicial personnel, advisory personnel, departmental personnel and employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned. References in the section to County personnel shall therefor be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-27, § 1, 3-20-73)
- (b) *Definitions.* For the purposes of this section the following definitions shall be effective:
- (1) The term "Commissioners" shall refer to the Mayor and the members of the Board of County Commissioners as duly constituted from time to time.
  - (2) The term "autonomous personnel" shall refer to the members of semi-autonomous authorities, boards, and agencies as are entrusted with the day to day policy setting, operation and management of certain defined County functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the Board of County Commissioners.
  - (3) The term "quasi-judicial personnel" shall refer to the members of the Community Zoning Appeals Board and such other boards and agencies of the County as perform quasi-judicial functions.
  - (4) The term "advisory personnel" shall refer to the members of those County advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the Board of County Commissioners.
  - (5) The term "departmental personnel" shall refer to the Manager, his or her department heads, the County Attorney and all Assistant County Attorneys.
  - (6) The term "employees" shall refer to all other personnel employed by the County.
  - (7) The term "compensation" shall refer to any money, gift, favor, thing or value or financial benefit conferred in return for services rendered or to be rendered.
  - (8) The term "controlling financial interest" shall refer to ownership, directly or indirectly, to ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity.
  - (9) The term "immediate family" shall refer to the spouse, domestic partner, parents, stepparents, siblings, half-siblings, step-siblings, children, and stepchildren of the person involved.
  - (10) The term "transact any business" shall refer to the purchase or sale by the County of specific goods or services for a consideration.
  - (11) The term "Ethics Commission" shall refer to the Miami-Dade County Commission on Ethics and Public Trust.
  - (12) The term "domestic partner" shall mean a person who is a party to a valid domestic partnership relationship as described in Section 11A-72(b)(1),(2), (3), (4) and (6) of the Code.
  - (13) The term "contract staff" shall mean any employee and/or principal of an independent contractor, subcontractor (of any tier), consultant or sub-consultant (of any tier), designated in a contract with the County as a person who shall be required to comply with the provisions of Subsections 2-11.1(g), (h), (j), (l),

(m), (n) and (o) of the Conflict of Interest and Code of Ethics Ordinance. Prior to determining whether to designate a person as contract staff in a RFP, RFQ, bid or contract, the Mayor or his or her designee shall seek a recommendation from the Executive Director of the Ethics Commission.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-23, § 1, 3-20-73; Ord. No. 86-24, § 3, 4-1-86; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 22-55, § 2, 6-1-22)

(c) *Prohibition on transacting business within the County.*

- (1) No person included in the terms defined in subsection (b)(1) through (6) and in subsection (b)(9) shall enter into any contract or transact any business, except as provided in subsections (c)(2) through (c)(6) in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violation of this subsection shall constitute malfeasance in office and shall effect forfeiture of office or position.
- (2) County employees' limited exclusion from prohibition on contracting with the county. Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not be construed to prevent any employee as defined by subsection (b)(6) [excluding departmental personnel as defined by subsection (b)(5)] or his or her immediate family as defined by subsection (b)(9) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County, if the employee works in the county department which will enforce, oversee or administer the subject contract.
- (3) Limited exclusion from prohibition on autonomous personnel, advisory personnel and quasi-judicial personnel contracting with county. Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not be construed to prohibit any person defined in subsection (b)(2), (b)(3) and (b)(4) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the board member or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County. However, any person defined in subsection (b)(2), (b)(3) and (b)(4) is prohibited from contracting with any agency or department of Miami-Dade County subject to the regulation, oversight, management, policy-setting or quasi-judicial authority of the board of which the person is a member.
- (4) Any person defined in subsections (b)(2) through (b)(4) and subsection (b)(6) shall seek a conflict of interest opinion from the Miami-Dade County Commission on Ethics and Public Trust ("the Ethics Commission") prior to submittal of a bid, response, or application of any type to contract with the County by the person or his or her immediate family. A request for a conflict of interest opinion shall be made in writing and shall set forth

and include all pertinent facts and relevant documents. If the Ethics Commission finds that the requirements of this section pertaining to exclusions for persons defined in subsections (b)(2) through (b)(4) and subsection (b)(6) are not met and that the proposed transaction would create a conflict of interest, the person defined in subsections (b)(2), (b)(3), (b)(4) or (b)(6) may request a waiver from the Board of County Commissioners within ten (10) days of the Ethics Commission opinion by filing a notice of appeal to the Ethics Commission. The Ethics Commission shall forward the notice of appeal and its opinion and any pertinent documents to the Clerk of the Board of County Commissioners (the "Clerk") forthwith. The Clerk shall place the request on the commission agenda for consideration by the Board. The Board of County Commissioners may grant a waiver upon an affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the entire Board of County Commissioners, after public hearing, if it finds that the requirements of this ordinance pertaining to the exclusion for a County employee from the Code have been met and that the proposed transaction will be in the best interest of the County. The Board of County Commissioners may, as provided in subsection (c)(6), grant a waiver to any person defined in subsection (b)(2) through (b)(4) regarding a proposed transaction. Such findings shall be included in the minutes of the board. This subsection shall be applicable only to proposed transactions, and the Board may in no case ratify a transaction entered into in violation of this subsection.

If the affected person or his or her immediate family member chooses to respond to a solicitation to contract with the County, such person shall file with the Clerk a statement in a form satisfactory to the Clerk disclosing the person's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a bid, response, or application of any type to contract with the County. Along with the disclosure form, the affected person shall file with the Clerk a copy of his or her request for an Ethics Commission opinion and any opinion or waiver from the Board. Also, a copy of the request for a conflict of interest opinion from the Ethics Commission and any opinion or waiver must be submitted with the response to the solicitation to contract with the County.

Notwithstanding any provision herein to the contrary, the County and any person or agency acting for Miami-Dade County shall not award a contract to any person defined in subsections (b)(2) through (b)(4) and subsection (b)(6) or his or her immediate family individually or through a firm, corporation, partnership or business entity in which the person or any member of his or her immediate family has a controlling financial interest, unless the Ethics Commission has rendered an opinion that entering the contract would not be a conflict of interest or the Board waives the conflict in accordance with the provisions of this ordinance.

The County Manager is directed to include language in all solicitations for county contracts advising persons defined in subsections (b)(2) through (b)(4) and subsection (b)(6) of the applicable conflict of interest code provisions, the provisions of this ordinance, including the requirement to obtain an Ethics Commission opinion and make disclosure, and the right to seek a legal opinion from the State of Florida Ethics Commission regarding the applicability of state law conflict of interest provisions.

- (5) Nothing herein shall prohibit or make illegal (1) the payment of taxes, special assessments or fees for services provided by County government; (2) the purchase of bonds, anticipation notes or other securities that may be issued by the County through underwriters or directly from time to time; (3) the participation of the persons included in the terms defined in subsection (b)(1) through (6), except for employees of the general services administration and their "immediate family" as defined in (b)(9), in the public auction process utilized by the County for the disposal of surplus motor vehicles; (4) the purchase of surplus personal property, pursuant to administrative order, by persons defined in subsection (b)(1) through (6) and (9); (5) an

application for direct assistance from the Miami-Dade County Department of Housing and Urban Development or an application to participate in a program administered by the Department of Special Housing has been submitted by an applicant who is a County person as defined in subsection (b) and who would but for this section be eligible for such assistance from said department; provided, however, that the exception provided in this paragraph shall not extend to an employee of the Miami-Dade County Department of Housing and Urban Development or the Department of Special Housing who participates in the administration of said programs; or (6) and application to participate in a single-family mortgage loan program sponsored by the Housing Finance Authority of Miami-Dade County, has been submitted by a County person as defined in subsection (b), and would but for this section be eligible for participation in said program; provided, however, that the exception provided in this paragraph shall not extend to an employee of the Miami-Dade County Finance Department who participates in the administration of said single-family mortgage loan program.

- (6) Extension of waiver to county commissioners, autonomous personnel, quasi-judicial personnel, and advisory personnel. The requirements of this subsection may be waived for a particular transaction only by affirmative vote of two-thirds of the entire Board of County Commissioners, after public hearing. Such waiver may be affected only after findings by two-thirds of the entire Board that:
- (1) An open-to-all sealed competitive bid has been submitted by a County person as defined in subsection (b)(2), (3) and (4), or
  - (2) The bid has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying as defined by the laws of the State of Florida and pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the bid has been submitted by a County person defined in subsection (b)(2), (3) and (4), or
  - (3) The property or services to be involved in the proposed transaction are unique and the County cannot avail itself of such property or services without entering a transaction which would violate this subsection but for waiver of its requirements, or
  - (4) That the property or services to be involved in the proposed transaction are being offered to the County at a cost of no more than 80 percent of fair market value based on a certified appraisal paid for by the provider, and
  - (5) That the proposed transaction will be to the best interest of the County.

Such findings shall be spread on the minutes of the Board. This subsection shall be applicable only to prospective transactions, and the Board may in no case ratify a transaction entered in violation of this subsection.

Provisions cumulative. This subsection shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-24, § 1, 3-20-73; Ord. No. 73-45, § 1, 5-1-73; Ord. No. 75-91, § 1, 11-4-75; Ord. No. 75-119, § 1, 12-16-75; Ord. No. 79-85, § 1, 10-16-79; Ord. No. 80-33, § 1, 5-6-80; Ord. No. 85-84, § 1, 10-1-85; Ord. No. 85-98, § 1, 11-5-85; Ord. No. 87-58, § 1, 9-1-87; Ord. No. 88-102, § 1, 10-18-88; Ord. No. 91-113, § 1, 10-1-91; Ord. No. 00-1, § 1, 1-13-00; Ord. No. 00-151, § 1, 11-28-00)

- (d) *Further prohibition on transacting business with the County.* No person included in the terms defined in subsections (b)(1) through (6) and in subsection (b)(9) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or any member of his immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for

Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. The remaining provisions of subsection (c) will also be applicable to this subsection as though incorporated herein by recitation.

Additionally, no person included in the term defined in subsection (b)(1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in subsection (b)(1) who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall: (1) announce publicly at the meeting the nature of the conflict before the matter is heard; (2) absent himself or herself from the Commission chambers during that portion of the meeting when the matter is considered; and (3) file a written disclosure of the nature of the conflict with the Clerk of the Board within 15 days after the vote. The filing of the State of Florida form prescribed for written disclosure of a voting conflict shall constitute compliance with this subsection. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-45, § 2, 5-1-73; Ord. No. 86-11, § 1, 2-18-86; Ord. No. 86-24, § 1, 4-1-86; Ord. No. 16-47, 5-17-16)

(e) *Gifts.*

- (1) *Definition.* The term "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.
- (2) *Exceptions.* The provisions of subsection (e)(1) shall not apply to:
  - a. Political contributions specifically authorized by State law;
  - b. Gifts from relatives or members of one's household;
  - c. Awards for professional or civic achievement;
  - d. Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
  - e. Gifts solicited by the County Mayor's deputies or chiefs or department directors on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
  - f. Gifts solicited by Commissioners or the County Mayor on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
  - g. Gifts solicited by Commissioners, or their staff members, on behalf of any nonprofit organization for use solely by that organization where neither the Commissioner, nor his or her staff receives any compensation as a result of the solicitation. As used in this subsection, a "nonprofit organization" shall mean any entity described in section 501(c)(3) of the Internal Revenue Code (the "Code") that is tax exempt under section 501(a) of the Code. As used in this subsection, "compensation" means any money, gift, favor, political contribution, thing of value or other financial benefit.
- (3) *Prohibitions.* A person described in subsection (b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term

defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:

- a. *General prohibition on solicitation and giving of gifts.* A person described in subsection (b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:
    - i. An official public action taken, or to be taken, or which could be taken;
    - ii. A legal duty performed or to be performed, or which could be performed; or
    - iii. A legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection (b)(1).
  - b. *Prohibition on gifts and offers on employment to members of competitive selection committees.* In addition to any other prohibition contained in this section, any person, or their immediate family members, appointed to serve on a competitive selection committee for a procurement shall not accept, solicit, or demand any gift of any value from any proposer to such procurement. Proposers to a procurement shall not offer, give, or agree to give any gift of any value or offer future employment to any member of the competitive selection committee for such procurement or to their immediate family members. Any person who has accepted a gift of any value from a proposer to a procurement in the two years preceding the issuance of the solicitation for such procurement shall not be appointed to the competitive selection committee for such procurement; and, if appointed, shall, in addition to any other penalty provided for in this section, be immediately removed from such competitive selection committee. For purposes of this subsection, the term "proposer" shall mean any person, firm or corporation that submits a response or proposal to a solicitation, including any owners, principals, corporate officers, managers, employees, agents, and lobbyists of such person, firm, or corporation and their immediate family members.
- (4) *Gifts solicited on behalf of the County.* The solicitation and acceptance of gifts on behalf of the County for use solely by the County in conducting its official business is permissible. It is provided, however, that soliciting and accepting such gifts shall be undertaken or authorized only by Commissioners, the County Mayor, the County Mayor's chiefs and deputies, or department directors.
- (5) *Disclosure.* Any person included in the term defined in subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioner simultaneously with the filing of the form with the Secretary of State.
- (Ord. No. 78-82, § 1, 11-21-72; Ord. No. 86-25, § 1, 4-1-86; Ord. No. 87-70, § 1, 10-20-87; Ord. No. 91-62, § 1, 6-4-91; Ord. No. 99-124, § 1, 2-11-1; Ord. No. 99-145, § 1, 10-19-99; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 21-62, § 1, 7-8-21; Ord. No. 22-56, § 1, 6-1-22)
- (f) *Compulsory disclosure by employees of firms doing business with the County.* Should any person included in the terms defined in subsections (b)(1) through (6) be employed, either himself or herself or through a member of his or her immediate family, by a corporation, firm, partnership or business entity in which he or she does not have a controlling financial interest, and should the said corporation, firm, partnership or business entity have



substantial business commitments to or from the County or any County agency, or be subject to direct regulation by the County or a County agency, then said person shall file a sworn statement disclosing such employment and interest with the Clerk of the Circuit Court in and for Miami-Dade County.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (g) *Exploitation of official position prohibited.* No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (h) *Prohibition on use of confidential information.* No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his or her official position with the County, nor shall he or she ever use such information, directly or indirectly, for his or her personal gain or benefit.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (i) *Financial disclosure.*

- (1) All persons and firms included within subsections (a) and (b)(2), (3) and (4) of this section shall file, no later than 12:00 noon of July 1st of each year including the July 1st following the last year that person is in office or held such employment, one (1) of the following:
  - a. A copy of that person's or firm's current federal income tax return; or
  - b. A current certified financial statement on a form of the type approved for use by State or national banks in Florida listing all assets and liabilities having a value in excess of one thousand dollars (\$1,000.00) and a short description of each; or
  - c. An itemized source of income statement, under oath and on a form approved by the County for said purpose.

Compliance with the financial disclosure provisions of Chapter 112 (Part III), Florida Statutes, as amended, or with the provisions of Article II, Section 8 of the Florida Constitution, as amended by the voters on November 2, 1976, and any general laws promulgated thereunder, shall constitute compliance with this section.

- (2) County and municipal personnel. The following County personnel shall comply with the filing requirements of subsection (i)(1) above: The Mayor and members of the Board of County Commissioners; County Attorney and Assistant County Attorneys; County Manager; Assistant County Manager(s); Special Assistant(s) to the County Manager; heads or directors of County departments and their assistant or deputy department heads; employees of the Miami-Dade Police with the rank of captain, major and chief; Building and Zoning Inspectors. References herein to specified County personnel and Boards shall be applicable to municipal personnel and Boards that serve in comparable capacities to the County personnel and Boards referred to.
- (3) Candidates for County and municipal office. All candidates for County and municipal elective office shall comply with the filing requirements of subsection (i)(1) above at the same time that candidate files qualifying papers.

- (4) Consultants. All persons or firms providing professional services as defined by Section 2-10.4(1)(a) and (b) of the Miami-Dade County, to Miami-Dade County or any municipalities, their agencies, or instrumentalities, shall comply with the filing requirements of subsection (i)(1) above within ninety (90) days of the effective date hereof. All persons or firms subsequent to the effective date of this section, which engage in competitive negotiation with Miami-Dade County or its municipalities, their agencies or instrumentalities under and pursuant to Section 2-10.4 of the Code of Miami-Dade County shall comply with the reporting requirements of subsection (i)(1) of this section within thirty (30) days of the execution of a contract arising out of said competitive negotiations and prior to any payments from said County, municipalities, their agencies or instrumentalities. Failure to comply with the terms hereof by such persons or firms shall render contracts voidable and shall automatically void any contracts negotiated and executed subsequent to the effective date of this section where the required information is not furnished within thirty (30) days of the execution of said contracts noted herein.
- (5) Reports; filing. All documents required to be filed hereunder by County persons or consultants shall be filed with the supervisor of elections. Documents required to be filed hereunder by municipal persons or consultants shall be filed with the municipal Clerk of that entity.
- (6) Public disclosure. All documents filed pursuant to this subsection shall constitute public records within the meaning of Chapter 119, Florida Statutes.
- (7) Construction. The construction of this subsection shall be considered as supplemental to and not in substitution of any requirements of Chapter 112, Florida Statutes, or any rules and regulations promulgated thereunder.

(Ord. No. 77-13, § 1, 3-1-77; Ord. No. 83-18, § 1, 4-19-83; Ord. No. 84-39, § 1, 5-15-84)

- (j) *Conflicting employment prohibited.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 2, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (k) *Prohibition on outside employment.*

- (1) No person included in the terms defined in subsections (b)(5) [departmental personnel] and (6) [employees] shall receive any compensation for his or her services as an officer or employee of the County, from any source other than the County, except as may be permitted by Section 2-11 of this Code of Ordinances.
- (2) All full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality, or any of their agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from said outside employment. Said County employee's reports shall be filed with the supervisor of elections no later than 12:00 noon on July 1st of each year, including the July 1st following the last year that person held such employment. Municipal employee reports shall be filed with the Clerk of their respective municipalities. Said reports shall be available at a reasonable time and place for inspection by the public. The County Manager or any city manager may require monthly reports from individual employees or groups of employees for good cause.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 3, 3-1-77; Ord. No. 77-79, § 1, 1-11-77; Ord. No. 77-87, § 1, 12-6-77; Ord. No. 83-18, § 2, 4-19-83; Ord. No. 84-39, § 2, 5-15-84; Ord. No. 10-48, § 1, 7-8-10)

- (l) *Prohibited investments.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall have personal investments in any enterprise, either himself, herself, or through a member of his or her immediate family which will create a substantial conflict between his or her private interests and the public interest.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (m) *Certain appearances and payment prohibited.*

- (1) No person included in the terms defined in subsections (b)(1), (5), (6) and (13) [commissioners, the Mayor, departmental personnel, employees and contract staff] shall appear before any County Board or agency and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third person, who has applied for or is seeking some benefit from the County or a County agency, in connection with the particular benefit sought by the third person. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the County or a County agency through the suit in question.
- (2) No person included in the terms defined in subsections (b)(2), (3) and (4) [autonomous personnel, quasi-judicial personnel, and advisory personnel] shall appear before the County board or agency on which he or she serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third party, who has applied for or is seeking some benefit from the County board or agency on which such person serves, in connection with the particular benefit by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the County board or agency on which such person serves through the suit in question. However, this section shall not prohibit an architect serving without compensation on the Miami-Dade County Board of Energy Regulation or on any architectural Board, whose sole function is to pass on the aesthetics of plans submitted, from submitting plans on behalf of a client so long as such member makes known his or her representation of the applicant and disqualifies himself or herself from speaking or voting or otherwise participating on such application.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-25, § 1, 3-20-73; Ord. No. 73-51, § 1, 5-15-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 79-39, § 1, 6-19-79; Ord. No. 10-48, § 1, 7-8-10)

- (n) *Actions prohibited when financial interests involved.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. A financial interest is defined as a special financial interest, direct or indirect, as that term is used in Section 4.03 of the County's Charter; or as a financial interest as defined in Section 769 of the Restatement of the Law of Torts as an investment or something in the nature of an investment. This section shall not prohibit any official, officer, employee or person from taking official action (1) to promote tourism or downtown development or redevelopment within the County or any portion thereof, or (2) to authorize the expenditure of public funds for promoting tourism or downtown development or redevelopment, so long as no such authorized public funds are to be paid to such person or a member of his or her immediate family or any business in which he or she or any member of his or her immediate family has a financial interest.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-50, § 1, 5-15-73; Ord. No. 75-76, § 1, 9-17-75; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (o) *Acquiring financial interests.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall acquire a financial interest in a project, business entity or property at a time when he or she believes or has reason to believe that the said financial interest will be directly affected by his or her official actions or by official actions by the County or County agency of which he or she is an official, officer, employee or contract staff.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (p) *Recommending professional services.* No person included in the terms defined in subsections (b)(1) through (6) may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm, or any other person or firm, professional or otherwise, to assist in any transaction involving the County or any of its agencies, provided that such recommendation may properly be made when required to be made by the duties of office and in advance at a public meeting attended by other County officials, officers or employees.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77)

- (q) *Continuing application after county service.*

- (1) No person who has served as an elected county official, i.e., mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee shall, for a period of two (2) years after his or her county service or employment has ceased, lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Additionally, no person who has served as a community council member shall, for a period of two (2) years after his or her county service or employment has ceased, lobby, with regard to any zoning or land use issue, any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Nothing contained in this Subsection (q)(1) shall prohibit any individual included within the provisions of this subsection from submitting a routine administrative request or application to a county department or agency during the two-year period after his or her county service has ceased.
- (2) The provisions of this Subsection (q) shall not apply to officials, departmental personnel or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities, and who lobby on behalf of such entities in their official capacities.
- (3) The provisions of this section shall apply to all individuals as described in Subsection (q)(1) who leave the county after the effective date of the ordinance from which this section derives.
- (4) Any former county officer, departmental personnel or employee who has left the county within two (2) years prior to the effective date of this ordinance and has entered into a lobbying contract prior to the effective date of this ordinance shall, for a period of two (2) years after his or her county service or employment has ceased, comply with Subsection (q) as it existed prior to the effective date of the ordinance from which this section derives and as modified by this Subsection (q)(4) when lobbying pursuant to said contract. No former

county officer, departmental personnel or employee who has left the county within two (2) years prior to the effective date of the ordinance from which this section derives shall for a period of two (2) years after his or her county service or employment has ceased enter into a lobbying contract to lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has a direct and substantial interest; and in which he or she participated directly or indirectly as an officer, departmental personnel or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, during his or her county service or employment. As used herein, a person participated "directly" where he or she was substantially involved in the particular subject matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, during his or her county service or employment. As used herein, a person participated "indirectly" where he or she knowingly participated in any way in the particular subject matter through decision, approval, disapproval, recommendation, the rendering of legal advice, investigation or otherwise, during his or her county service or employment. Former county officers, departmental personnel and employees who have left the county within two (2) years prior to the effective date of the ordinance from which this section derives shall execute an affidavit on a form prepared by the Office of the Inspector General prior to lobbying any county officer, departmental personnel or employee stating that the requirements of this section do not preclude said person from lobbying any officer, departmental personnel or employee of the county. The Inspector General shall verify the accuracy of each affidavit executed by former county officers, departmental personnel or employees.

- (5) Any individual who is found to be in violation of this Subsection (q) shall be subject to the penalties provided in either Subsection (u)(1) or Subsection (u)(2).

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 99-2, § 1, 1-21-99)

- (r) *Ethics Commission to render opinions on request.* Whenever any person included in the terms defined in subsection (b)(1) through (6), (b)(9) and (b)(13) is in doubt as to the proper interpretation or application of this Conflict of Interest and Code of Ethics Ordinance as to himself or herself, or whenever any person who renders services to the County is in doubt as to the applicability of the said ordinance as to himself or herself, he or she may submit to the Ethics Commission a full written statement of the facts and questions he or she has. The Ethics Commission shall then render an opinion to such person and shall publish these opinions without use of the name of the person advised unless such person requests the use of his or her name. Any person included in the term defined in subsection (b)(1) (i.e., Mayor or Commissioner) who is employed or retained by an entity that receives County funds or is under contract with the County shall, within sixty (60) days after (a) being retained or employed by the entity, or (b) becoming aware of the entity's receipt of County funds or of the entity's contract with the County, whichever is later, seek an opinion from the Ethics Commission or the Executive Director of the Ethics Commission regarding the applicability of the Conflict of Interest and Code of Ethics Ordinance. Any person included in the term defined in subsection (b)(1) who is employed or retained by an entity that receives County funds or is under contract with the County and has received an opinion from the Ethics Commission or the Executive Director of the Ethics Commission prior to the effective date of this ordinance regarding the applicability of the Conflict of Interest and Code of Ethics Ordinance to himself or herself shall not be required to seek another opinion from the Ethics Commission.

(Ord. No. 73-26, § 1, 3-20-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 97-105, § 2, 7-8-97; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 12-22, § 1, 4-3-12)

(s) *Principal and Lobbyist Registration.*

(1) *Definitions.*

- (a) *County personnel* means those County officials, officers and employees included in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, with the exception of the County Attorney and Assistant County Attorneys; advisory personnel as defined in Section 2-11.1(b)(4); and any employee of a County department or division with the authority to participate in procurement matters, when the communication involves such procurement.
  - (b) *Expenditure* means the same as defined in Section 112.3215, Florida Statutes.
  - (c) *Government entity* means any political subdivision, including any county, municipality, special district, school district, utility authority, or other authority, or any instrumentality, agency, unit, or department thereof.
  - (d) *Lobbying activity* means any attempt to influence or encourage the passage or defeat of, or modification to, governmental actions, including, but not limited to, ordinances, resolutions, rules, regulations, executive orders, and procurement actions or decisions of the County Commission, the Mayor, any County board or committee, or any County personnel. The term "lobbying activity" encompasses all forms of communication, whether oral, written, or electronic, during the entire decision-making process on actions, decisions, or recommendations which foreseeably will be heard or reviewed by County personnel. This definition shall be subject to the exceptions stated in subparagraph (s)(2) below.
  - (e) *Lobbyist* means all persons, firms, entities, or corporations that are employed, designated, or retained by a principal, with or without compensation, or that contract with a third-party for economic consideration to perform lobbying activities on behalf of a principal. "Lobbyist" includes the principal that lobbies, as well as any employee that has been designated by the principal to perform lobbying activities on behalf of the principal.
  - (f) *Principal* means the person, firm, corporation, or other entity that performs lobbying activity on behalf of itself or that has designated, employed, or retained a lobbyist to lobby on its behalf. The term "principal" also includes the person, firm, corporation, or other entity receiving the benefit of the lobbying effort and on whose behalf the lobbyist is lobbying, even if the lobbyist is retained, engaged, or employed by a third-party for such purposes.
  - (g) *Procurement matter* means the County's processes for the purchase of goods and services, including, but not limited to, processes related to the acquisition of: technology; public works; design services; construction, professional architectural, engineering, landscape architecture, land surveying, and mapping services; the purchase, lease, or sale of real property; and the acquisition, granting, or other interest in real property.
  - (h) *Encourage* means to influence, promote, support, oppose, or seek to modify, alter, amend, or delay any recommendation, action, or decision of the County Commission, the Mayor, any County board or committee, or any County personnel.
- (2) *Exceptions.* The following persons are specifically excluded from the definition of "lobbyist" and shall not be subject to the requirements of this subsection:

- (a) Any representative of individuals, corporations, or other entities solely during a public hearing on a quasi-judicial matter;
  - (b) Any person who appears only as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect, or contingent;
  - (c) Any person who only appears as a representative of a not-for-profit community-based organization without special compensation or reimbursement for the appearance to request a grant;
  - (d) Any person employed or retained by a principal whose normal scope of employment or retention does not include lobbying activities and who is not engaged in lobbying activities on behalf of said principal;
  - (e) Any expert who is retained for the sole purpose of providing only scientific, technical, or other specialized information or testimony in public meetings;
  - (f) Any public officer, employee, or appointee, appearing in his or her official capacity, to represent a governmental entity;
  - (g) Any person who only appears in his or her official capacity for the purpose of self-representation without compensation or reimbursement, whether direct, indirect, or contingent, to express support or opposition to any item;
  - (h) Any person engaged in following activities involving a procurement matter:
    - 1. Appearance at a pre-bid conference;
    - 2. Submission of a bid or proposal;
    - 3. Submission of a written question or response to a bid or proposal;
    - 4. Presentation by technical experts, or persons employed or retained by a principal whose normal scope of employment does not include lobbying activities, for purposes of explaining or demonstrating characteristics or performance of a procurement matter, provided the presentation does not include any advocacy or recommendations on the procurement matter and is otherwise consistent with the pending procurement matter or guidelines and procedures;
    - 5. Post-award contract management;
    - 6. Participation in market research process;
    - 7. Accessed contracts; and
    - 8. Emergency purchases
- (3) *Registration.* All lobbyists and principals who lobby 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 register shall:
- (a) Register on forms prepared by the Clerk;
  - (b) State under oath his or her name, business address, the name and business address of each person or entity which has, directly or indirectly, designated, retained, or employed said registrant to lobby and the specific issue on which the lobbyist has been designated, retained, or employed to lobby. If the lobbyist represents a corporation, the corporation shall also be identified.
  - (c) 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.
  - (d) 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). 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 the [ordinance from which this section derives] 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.

- (e) 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, describing the specific issue, agenda item, or procurement matter that is the subject of the lobbying, and identifying all persons holding, directly or indirectly, a five (5) percent or more ownership interest in the corporation, partnership, or trust.
  - (f) 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 subparagraph (s) (8).
  - (g) 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.
  - (h) Lobbyists shall file amendments to their registration forms within fifteen (15) days of any change of information required to be set forth on their registration forms.
  - (i) Each lobbyist shall file a form with the Clerk of the Board within thirty (30) days after ceasing all lobbying activities with a principal.
- (4) *Ethics training.*
- (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) 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.

- (5) *Exceptions to registration fee requirement.* The following persons or entities shall register as lobbyists and complete the required ethics training, pursuant to the subparagraphs above, but shall not be required to pay registration fees:
- (a) 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.
  - (b) Any person who only appears as a representative of a not-for-profit corporation or entity (such as a 501(c)(3) organization, a trade association, or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
  - (c) Any principal who only appears as a representative of a certified Micro Enterprise, as defined in Section 2-8.1.1.1.1 of the Code, as a representative of a certified Level I Community Small Business Enterprise, as defined in Section 10-33.02 or as a representative of a certified Tier 1 Community Business Enterprise, as defined in Section 2-10.4.01, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
- (6) *Affidavit requirement.* The following provisions shall apply to certain individuals who, in procurement matters, participate in oral presentations or recorded negotiation meetings and sessions:
- (a) The principal shall list on an affidavit form, provided by the County, all technical experts or employees of the principal whose normal scope of employment does not include lobbying activities and whose sole participation in a County procurement matter involves an appearance and participation in an oral presentation before a County certification, evaluation, selection, technical review or similar committee, or recorded negotiation meetings or sessions.
  - (b) No person shall appear before any procurement committee or at any procurement negotiation meeting or session on behalf of a principal unless he or she has been listed as part of the principal's presentation or negotiation team pursuant to this subparagraph (s)(6), or has registered as a lobbyist pursuant to subparagraph (s)(3).
  - (c) For the purpose of this subsection (s) only, the listed members of the oral presentation or negotiation team shall not be required to separately register as lobbyists or pay any registration fees.
  - (d) The affidavit required by this subsection shall be filed by County procurement staff with the Clerk of the Board at the time the proposal is submitted or prior to the recorded negotiation meeting or session.
  - (e) Notwithstanding the foregoing, any person who engages in lobbying activities in addition to appearing before a procurement committee to make an oral presentation, or at a recorded procurement negotiation meeting or session, shall comply with all lobbyist registration requirements.
- (7) *Expenditure reports.*
- (a) On July 1 of each year, the lobbyist shall submit to the Clerk of the Board of County Commissioners a signed statement under oath, as provided herein, listing all lobbying expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. The statement shall list in detail each expenditure by

category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events. Even if there are no reportable expenditures during a reporting period, a statement shall be filed so indicating.

- (b) The Clerk of the Board of County Commissioners shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed as provided in subsection (s)(9), a fine of fifty dollars (\$50.00) per day shall be assessed for reports filed after the due date. Where a fine of fifty dollars (\$50.00) per day is assessed, the Ethics Commission shall not impose a fine as provided in subsection (z). Any lobbyist who fails to file the required expenditure report by September 1 shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Ethics Commission.
  - (c) The Clerk of the Board of County Commissioners shall notify the Commission on Ethics and Public Trust of the failure of a lobbyist or principal to file a report and/or pay the assessed fines after notification.
  - (d) A lobbyist or principal may appeal a fine and may request a hearing before the Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Commission on Ethics and Public Trust within fifteen (15) calendar days of receipt of the notification of the failure to file the required disclosure form. The Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or part, based on good cause shown. The Commission on Ethics and Public Trust shall have the authority to adopt rules of procedure regarding appeals from the Clerk of the Board of County Commissioners.
- (8) *Contingency fees.*
- (a) No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
  - (b) As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the lobbying activities.
- (9) *Lobbyist registration logs.*
- (a) The Clerk shall publish logs on a quarterly and an annual basis reflecting the principal and lobbyist registrations which have been filed in accordance with this subsection (s).
  - (b) All logs shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to Section 11.045, Florida Statutes.
- (10) *Violations.*
- (a) The Ethics Commission shall investigate any person engaged in lobbying who may be in violation of this subsection (s).
  - (b) In the event that a violation is found to have been committed the Ethics Commission may, in addition to the penalties set forth in subsection (z), prohibit such person from lobbying before the County Commission or any committee, board or personnel of the County as provided herein.
  - (c) Every lobbyist who is found in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:
    - 1st violation for a period of 90 days from the date of determination of violation;
    - 2nd violation for a period of one (1) year from the date of determination of violation;

3rd violation for a period of five (5) years from the date of determination of violation.

- (d) A bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code of Miami-Dade County as if the bidder or proposer were a contractor where the bidder or proposer has violated this section, either directly or indirectly or any combination thereof, on three (3) or more occasions. As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall also render the contract voidable. The County Mayor or designee shall include the provisions of this subsection in all County bid documents, RFP, RFQ, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as a result of such failure illegal per se.

(11) *Diligence requirement; lobbying by unregistered persons; effect on County action.*

- (a) All members of the County Commission, and all County personnel, shall be diligent to ascertain whether persons required to register as lobbyists pursuant to this subsection (s) have complied with the requirement. This diligence requirement may be satisfied if members of the County Commission, or County personnel, maintain a written log that documents all oral lobbying communications or meetings with a lobbyist, held for the purpose of lobbying outside a duly noticed public meeting or hearing, and the log, at a minimum, reflects the name of the lobbyist, the date of the lobbying activity, whether the lobbyist indicates he or she is registered, and the subject matter discussed. Each such log shall be maintained and made available consistent with public record requirements.
- (b) Commissioners or County personnel shall not knowingly permit a person who is not registered pursuant to this subsection to lobby the Commissioner or his or her staff, or the relevant committee, board, or County personnel.
- (c) Notwithstanding the foregoing, and except as otherwise provided herein, the validity of any action or determination of the Board of County Commissioners or County personnel, board, or committee shall not be affected by the failure of any person to register as a lobbyist or otherwise comply with the provisions of subsection (s).

(Ord. No. 86-24, § 1, 4-1-86; Ord. No. 91-22, § 1, 2-19-91; Ord. No. 92-27, § 1, 4-21-92; Ord. No. 95-21, § 1, 2-7-95; Ord. No. 98-73, § 1, 6-2-98; Ord. No. 98-76, § 1, 6-2-98; Ord. No. 00-19, § 1, 2-8-00; Ord. No. 01-93, § 1, 5-22-01; Ord. No. 01-162, § 1, 10-23-01; Ord. No. 10-03, § 1, 1-21-10; Ord. No. 10-04, § 1, 1-21-10; Ord. No. 10-34, § 1, 6-3-10; Ord. No. 10-56, § 1, 9-21-10; Ord. No. 12-10, § 1, 3-6-12; Ord. No. 12-63, § 1, 9-6-12; Ord. No. 21-73, § 1, 7-20-21)

(t) *Cone of Silence.*

1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts.
  - (a) "Cone of Silence" is hereby defined to mean a prohibition on:
    - (i) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff;
    - (ii) Any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff;

- (iii) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, or consultant and any member of the selection committee therefor;
- (iv) Any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefor;
- (v) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and
- (vi) Any communication regarding a particular RFP, RFQ, or bid between any member of the County's professional staff and any member of the selection committee therefore.

The County Manager and the Chairperson of the selection committee may communicate about a particular selection recommendation, but only after the committee has submitted an award recommendation to the manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change as well as the reasons for such change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to:

- (i) Competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development and the community-based organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments, Cultural Affairs and Tourist Development Councils and the Department of Environmental Resources Management;
- (ii) Communications with the County Attorney and his or her staff;
- (iii) Communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs;
- (iv) Communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure;
- (v) Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the County Manager makes his or her written recommendation;
- (vi) Any emergency procurement of goods or services pursuant to Administrative Order 3-2;
- (vii) Communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- (viii) Communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation

document as the issuing department; and

- (ix) Consultations by employees of the Department of Procurement Management with professional procurement colleagues in determining an appropriate approach or option involving a solicitation in progress.
- (b) Procedure.
  - (i) A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the County Manager or his or her designee shall provide for public notice of the Cone of Silence. The County Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Clerk of the Board, with a copy thereof to each Commissioner, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.
  - (ii) The Cone of Silence shall terminate at the time the Manager makes his or her written recommendation to the County Commission; provided, however, that if the Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be reimposed until such time as the Manager makes a subsequent written recommendation. The foregoing notwithstanding, for contracts and purchases which the County Manager has the delegated authority to award under Section 2-8.1(b) of this Code, the Cone of Silence shall terminate: (i) at the time the award recommendation letter is issued and filed with the Clerk of the Board for such contracts and purchases involving the expenditure of over one hundred thousand dollars (\$100,000); (ii) at the time the written award recommendation is posted in accordance with Section III of A.O. 3-21 for such contracts or purchases involving the expenditure of over \$25,000 up to \$100,000; or (iii) at the time the award recommendation is issued in accordance with Section IV of A.O. 3-21 for contracts and purchases involving the expenditure of \$25,000 or less.
  - (iii) While the Cone of Silence is in effect, County Staff shall create a written record of any oral communications with potential vendor, service provider, bidder, lobbyist, or consultant related to or regarding a solicitation, bid, proposal, or other competitive process. The record shall indicate the date of such communication, the persons to whom staff communicated, and a general summation of the communication. This subsection applies to all communications made while the Cone of Silence is in effect for a particular solicitation.
- (c) Exceptions.
  - (i) The provisions of this ordinance shall not apply to oral communications at pre-bid conferences, oral presentations before selection committees duly noticed as a public meeting, recorded contract negotiations and contract negotiation strategy sessions in compliance with the exemption in Florida Statutes Section 286.0113, any portion of a meeting discussing an unsolicited proposal in compliance with the exemptions in section 255.065, Florida Statutes, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communication in writing at any time with any County employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.
  - (ii) The provisions of this ordinance shall also not apply to oral communications at briefings held by

county commissioners and the County Mayor or his designee, after the selection committee or other evaluating group makes its recommendation to the County Manager, provided that the briefings are not intended to influence the outcome of the selection committee or other evaluating group's recommendation to the County Manager; provided, however, that this exception shall not apply to outside groups such as lobbyists or representatives of the responding or bidding companies or entities.

2. Audit and IPSIG contracts.

- (a) "Cone of Silence" is hereby defined to mean a prohibition on: (a) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (b) any oral communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff. Notwithstanding the foregoing, the Cone of Silence shall not apply to (a) communications with the County Attorney and his or her staff; (b) communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation document as the issuing department; and (c) consultations by employees of the Department of Procurement Management with professional procurement colleagues in determining an appropriate approach or option involving a solicitation in progress.
  - (b) Except as provided in Subsections 2(c) and 2(d) hereof, a Cone of Silence shall be imposed upon each RFP, RFQ and bid for audit and IPSIG services after the advertisement of said RFP, RFQ or bid. At the time of the imposition of the Cone of Silence, the County Manager or his or her designee shall provide for the public notice of the Cone of Silence. The Cone of Silence shall terminate when the County Manager executes a particular audit or IPSIG contract.
  - (c) Nothing contained herein shall prohibit any bidder or proposer: (i) from making public presentations at duly noticed pre-bid conferences or before duly noticed selection committee meetings; (ii) from engaging in recorded contract negotiations in compliance with the exemption in Florida Statutes Section 286.0113; or (iii) from communicating in writing with any County employee or official for purposes of seeking clarification or additional information from, subject to the provisions of the applicable RFP, RFQ or bid documents. Any recordings made pursuant to this section shall be made available, as a public record, upon the conclusion of the selection committee or negotiation meetings notwithstanding the elapsed time from bid or proposal opening. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to the general public upon request.
  - (d) Nothing contained herein shall prohibit any lobbyist, bidder, proposer or other person or entity from publicly addressing the Board of County Commissioners during any duly noticed public meeting regarding action on any audit or IPSIG contract. The County Manager shall include in any public solicitation for auditing or IPSIG services a statement disclosing the requirements of this ordinance.
3. Penalties. In addition to the penalties provided in subsections (s) and (v) hereof, violation of this subsection (t) by a particular bidder or proposer shall render any RFP award, RFQ award or bid award to said bidder or proposer voidable. Any person who violates a provision of this ordinance shall be prohibited from serving on

a Miami-Dade County competitive selection committee. In addition to any other penalty provided by law, violation of any provision of this ordinance by a Miami-Dade County employee shall subject said employee to disciplinary action up to and including dismissal. Additionally, any person who has personal knowledge of a violation of this ordinance shall report such violation to the State Attorney and/or may file a complaint with the Ethics Commission.

4. The requirements of Section 2-11.1(t) shall not apply to any municipality in Miami-Dade County that has adopted an ordinance providing that the cone of silence shall not apply to that municipality. Any municipality that opts out of the requirements of Section 2-11.1(t) shall provide the Ethics Commission with a copy of the ordinance.
5. Within thirty days of a recommendation from a selection committee, the County Mayor or his designee shall either appoint a negotiation committee or take other affirmative action with respect to the solicitation, including but not limited to rejection of proposals or recommendation for award. In the event that negotiations have not commenced within thirty days, or if such other affirmative action has not been taken within thirty days, the County Mayor or his designee shall report such event, and the reasons therefore, to the Board of County Commissioners. Additionally, the County Mayor or his designee shall present the Clerk of the Board with a recommendation for award, or a recommendation to reject proposals, within ninety days from the date a selection committee makes a recommendation. In the event that the County Mayor or his designee has not provided such recommendation to the Clerk of the Board within ninety days, the County Mayor or his designee shall provide a report on the status of the solicitation to the Board of County Commissioners, including the reasons for any delay.

(Ord. No. 98-106, § 1, 7-21-98; Ord. No. 99-1, § 1, 1-21-99; Ord. No. 00-149, § 1, 11-28-00; Ord. No. 01-149, § 1, 9-25-01; Ord. No. 01-150, § 1, 9-25-01; Ord. No. 02-3, § 1, 1-29-02; Ord. No. 04-77, § 1, 4-27-04; Ord. No. 08-111, § 1, 10-7-08; Ord. No. 17-94, § 3, 12-5-17)

- (u) *Prohibition on certain business transactions.* No person who is serving as an elected county official or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager or department director shall enter into a business transaction with any person or entity that has a contract with Miami-Dade County or any shareholder, partner, officer, director or employee of said contractor, unless said business transaction is an arm's length transaction made in the ordinary course of business. The provisions of this subsection (u) shall not apply to a business transaction between an elected county official, a member of the staff of an elected county official, the county manager, a senior assistant to the county manager or a department director and a not-for-profit entity. As used herein, a "shareholder" shall mean any person owning ten (10) percent or more of the outstanding capital stock of any corporation. As used herein, "elected county official" shall mean the mayor, county commissioners and community council members. As used herein, "business transaction" shall mean any contract wherein persons either sell, buy, deal, exchange, rent, lend or barter real, personal or intangible property, money or any other thing of value, or render services for value.
- (v) *Voting Conflicts.* Members of Advisory and Quasi-Judicial Boards. No person included in the terms defined in subsections (b)(3) (quasi-judicial personnel) and (b)(4) (advisory personnel) shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves, and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor.

- (w) *Prohibition on acceptance of travel expenses from county vendors.* Notwithstanding any other provision of this section, no person included in subsections (b)(1)(Mayor and Commissioners), (b)(5)(departmental personnel) or (b)(6) (employees) shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county contractor, vendor, service provider, bidder or proposer. The Board of County Commissioners may waive the requirements of this subsection by a majority vote of the Commission. The provision of this subsection (w) shall not apply to travel expenses paid by other governmental entities or by organizations of which the County is a member if the travel is related to that membership.
- (x) *Prohibition on county employees and departmental personnel performing contract-related duties.* No person included in subsections (b)(5)(departmental personnel) and (b)(6) (employees), who was previously employed by or held a controlling financial interest in a for-profit firm, partnership or other business entity (hereinafter "business entity") shall, for a period of two years following termination of his or her prior relationship with the business entity, perform any county contract-related duties regarding the business entity, or successor in interest, where the business entity is a county bidder, proposer, service provider, contractor or vendor. As used in this subsection (x), "contract-related duties" include, but are not limited to: service as a member of a county certification, evaluation, selection, technical review or similar committee; approval or recommendation of award of contract; contract enforcement, oversight or administration; amendment, extension or termination of contract; or forbearance regarding any contract. Notwithstanding the foregoing, the provisions of this subsection (x) shall not apply to the County Manager or the Director of Procurement Management.
- (y) *Powers and jurisdiction of Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance. Jurisdiction of the Ethics Commission shall automatically extend to Commissioners, the Mayor, autonomous personnel, quasi-judicial personnel, departmental personnel, employees, contract staff, advisory personnel, immediate family, lobbyists as defined in subsections (b) and (s) who are required to comply with the Conflict of Interest and Code of Ethics Ordinance; proposers as defined in subsection (e) that are required to comply with the Conflict of Interest and Code of Ethics Ordinance; and any other person required to comply with the Conflict of Interest and Code of Ethics Ordinance including, but not limited to, contractors, consultants and vendors. In the event that the Ethics Commission does not assume jurisdiction as provided in the preceding sentence, the Ethics Commission may refer the complaint to the State Attorney for appropriate action. Notwithstanding the foregoing, the Ethics Commission shall not have jurisdiction to consider an alleged violation of subsection (c) if the requirements of subsection (c) have been waived for a particular transaction as provided therein.

(Ord. No. 10-48, § 1, 7-8-10; Ord. No. 21-62, § 1, 7-8-21)

- (z) *Prohibition on participation in settlement negotiations.* Neither the Mayor, a County Commissioner nor any member of their staff shall participate in settlement negotiations of claims or lawsuits, including but not limited to contract scope or compensation adjustments involving the County without prior approval of the Board of County Commissioners.
- (aa) *County Attorney's Office participation in contract adjustments.* County staff shall request the participation of the County Attorney's Office to provide legal advice regarding scope or compensation adjustments which increase by more than one million dollars (\$1,000,000.00), the value of a construction contract or a contract involving the purchase of goods or services.
- (bb) *Affidavit and Ethics Course.* Each person who is elected to serve as a member of the Board of County



Commissioners or as Mayor of Miami-Dade County shall execute an affidavit, on a form prepared by the Ethics Commission, stating that he or she has read the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and agrees to comply with the provisions of said ordinance. Each elected official covered by the requirements of this subsection shall file the required affidavit with the Ethics Commission prior to being sworn into office. Each elected official, as defined in subsection (b)(1), shall, within ninety (90) days after being sworn into office, 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"). Each employee of the County, as defined in subsections (b)(5) and (b)(6), shall within one hundred and eighty (180) days of the effective date of this ordinance or within sixty (60) days after being hired by the County, 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. Employees shall be required to complete a refresher Ethics Course every two years thereafter. Each employee who has completed a refresher Ethics Course shall submit to the Clerk of the Board a certificate of completion. 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; the Public Records Law and the Citizens' Bill of Rights. The requirements of this subsection (bb) relating to the Ethics Course for employees shall not be applicable to any municipality in Miami-Dade County unless said municipality has adopted an ordinance providing for the Ethics Course, and has entered into an interlocal agreement with the County authorizing the Ethics Commission to provide the Ethics Course provided for in this subsection.

(Ord. No. 12-11, § 1, 3-6-12; Ord. No. 13-50, § 1, 6-4-13)

(cc) *Penalty.*

- (1) *Proceeding before Ethics Commission.* A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. Where the Ethics Commission finds that a person has intentionally violated this section and determines that a fine is appropriate, said person shall be subject to a fine of one thousand dollars (\$1,000.00) for the first such violation and two thousand dollars (\$2,000.00) for each subsequent violation. Actual costs incurred by the Ethics Commission, in an amount not to exceed five hundred dollars (\$500.00) per violation, may be assessed where the Ethics Commission has found an intentional violation of this section. The Ethics Commission may also order the person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.
- (2) *Prosecution by State Attorney in State court.* Every person who is convicted of a violation of this section in State court shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-26, § 1, 3-20-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 86-24, § 2, 4-1-86; Ord. No. 91-22, § 1, 2-19-91; Ord. No. 92-27, § 1, 4-21-92; Ord. No. 95-21, § 1, 2-7-95; Ord. No. 97-105, § 2, 7-8-97; Ord. No. 98-73, § 1, 6-2-98; Ord. No. 98-76, § 1, 6-2-98; Ord. No. 98-106, § 1, 7-21-98; Ord. No. 98-125, § 1, 9-3-98; Ord. No. 99-150, § 1, 11-2-99; Ord. No. 00-46, § 1, 4-11-00; 00-149, § 1, 11-28-00; Ord. No. 01-199, § 1, 12-4-01; Ord. No. 03-73, § 1, 4-8-03; Ord. No. 03-107, § 1, 5-6-03; Ord. No. 03-140, § 1, 6-3-03; Ord. No. 04-55, § 1, 3-16-04; Ord. No. 04-119, § 1, 6-8-04; Ord. No. 04-204, § 1, 12-2-04; Ord. No. 05-71, § 1, 4-5-05; Ord. No. 06-148, § 1, 10-10-06; Ord. No. 10-11, § 1, 2-2-10; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 13-53, § 1, 6-4-13; Ord. No. 14-96, § 1, 10-7-14)

**Editor's note—** Ord. No. 72-82, § 1, amended this Code by repealing former § 2-11.1 relative to County officers and employees transacting business with the County and enacted in lieu thereof a new § 2-11.1 as herein set out. Former § 2-11.1 was derived from Ord. No. 59-44, §§ 2—5, adopted Dec. 1, 1959.

**Annotations—**AO 7-1; CAO's 76-8, 76-32, 76-36, 76-39, 76-43, 76-46, 76-50, 76-55, 77-1, 77-9, 77-14, 77-16, 77-19, 77-26, 77-33, 77-37, 77-40, 77-41, 77-44, 77-52, 77-53, 77-56, 77-63, 77-68, 78-2, 78-10, 78-11, 78-12, 78-17, 78-25, 78-33, 78-44, 78-47, 78-53, 78-54, 79-6, 79-7, 79-12, 79-16, 79-19, 79-32, 79-37, 80-3, 80-4, 80-11, 80-21, 80-24, 80-25, 80-28, 80-29, 81-4, 81-13, 81-18, 81-22, 81-31, 81-38, 82-1, 82-10, 82-13, 82-19, 82-24, 82-25, 82-28, 82-29, 83-2, 83-6, 83-11, 83-22, 85-8.

**State Law reference—** Code of ethics for public officers and employees, F.S. § 112.311 et seq.

Exhibit “C”

Nine Island Condominium Association Corporate Documents  
and  
Belle Isle Residents Association Board of Directors List



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

## Detail by Entity Name

Florida Not For Profit Corporation

NINE ISLAND AVENUE CONDOMINIUM ASSOCIATION, INC.

### Filing Information

<b>Document Number</b>	760169
<b>FEI/EIN Number</b>	59-2196288
<b>Date Filed</b>	09/22/1981
<b>State</b>	FL
<b>Status</b>	ACTIVE
<b>Last Event</b>	REINSTATEMENT
<b>Event Date Filed</b>	11/13/2015

### Principal Address

9 ISLAND AVENUE, BELLE ISLE  
OFFICE  
MIAMI BEACH, FL 33139

Changed: 03/26/2020

### Mailing Address

9 ISLAND AVENUE, BELLE ISLE  
OFFICE  
MIAMI BEACH, FL 33139

Changed: 03/26/2020

### Registered Agent Name & Address

HALPERN, MARK  
355 ALHAMBRA CIRCLE  
CORAL GABLES  
SUITE 1101  
CORAL GABLES, FL 33134

Name Changed: 03/30/2022

Address Changed: 03/30/2022

### Officer/Director Detail

#### **Name & Address**

Title PRESIDENT

DIFFENDERFER, GLENN SCOTT  
9 ISLAND AVE.  
1501  
MIAMI BEACH, FL 33139

Title VICE PRESIDENT

SOLER, JOSE  
9 ISLAND AVE.  
1903  
MIAMI BEACH, FL 33139

Title TREASURER

SERTEL, KARLA  
9 ISLAND AVE.  
1703  
MIAMI BEACH, FL 33139

Title SECRETARY

MULLAHY, NANCY  
9 ISLAND AVE  
610 / 1010  
MIAMI BEACH, FL 33139

Title DIRECTOR

ORLOWSKY, JAMES  
9 ISLAND AVE  
1414  
MIAMI BEACH, FL 33139

Annual Reports

Report Year	Filed Date
2020	03/26/2020
2021	03/11/2021
2022	03/30/2022

Document Images

<a href="#">03/30/2022 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/11/2021 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/26/2020 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">11/06/2019 -- AMENDED ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">06/10/2019 -- AMENDED ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/02/2019 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">03/27/2018 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">02/13/2017 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>

<a href="#">04/06/2016 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">11/13/2015 -- REINSTATEMENT</a>	View image in PDF format
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<a href="#">05/05/1998 -- ANNUAL REPORT</a>	View image in PDF format
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<a href="#">02/15/1996 -- ANNUAL REPORT</a>	View image in PDF format
<a href="#">04/13/1995 -- ANNUAL REPORT</a>	View image in PDF format



## 2022 BIRA Board of Directors

The Board of Directors is composed of the following officers and board members:

**Scott Van Hove** – President

**Shawn Patrick Bryant** – Vice President

**Cara Glaser** – Treasurer

**Nikki Goldbeck** – Secretary

Arlene De La Torre

Scott Diffenderfer

Laura Dominguez

Herb Frank  
David Leeds  
Debra Leibowitz  
Gary Rugg



## Goals and Accomplishments

We work with residents and government to make Belle Isle the best place to live on the Beach. [Read more about what we do.](#)





## News & Updates

- PUBLIC WORKS DEPARTMENT – BIRA Annual Meeting
- Join the Belle Isle Residents Association (BIRA) for our annual meeting on February 10, 2022!
- 2020 Annual Meeting Agenda for Tuesday, Jan. 21, 2020
- Annual Meeting Notice

## Belle Isle Blog

<https://belleisleblog.wordpress.com>

## Venetian Islands Neighborhood Association (VIHA)

<https://belleisleblog.wordpress.com>

## Venetian Way Neighborhood Alliance (VWNA)

<https://www.thevenetianway.org>

## History

Not so long ago, Belle Isle was very different from what it is today. [See how the island has changed over the years...](#)



## Where We Are



## Living on Belle Isle



Belle Isle is a unique neighborhood in Miami Beach. But what exactly makes it so special?

## Contact BIRA

[BelleIsleResidents@gmail.com](mailto:BelleIsleResidents@gmail.com)

Exhibit “D”

Scott Diffenderfer Professional Profile, Compass Realty

Last visited 4/2/2025: <https://www.compass.com/agents/scott-diffenderfer/>



## Scott Diffenderfer

Broker Associate



[Work with Scott Diffenderfer](#)

### Social Media



[LinkedIn](#)



[Instagram](#)



[Facebook](#)

### Specialties

Specialties: Miami Beach, Downtown Miami, Brickell and surrounding areas

### Current Community Involvement

- Vice President, Nine Island Avenue Condominium Association

- Vice Chair, City of Miami Beach Design Review Board
- Vice Chair, City of Miami Beach Program for Public Information (PPI) Committee

### **Prior Community Involvement**

- President, Belle Isle Residents Association, 2008 to 2021
- Secretary, Miami Beach Botanical Garden
- Residential Governor, Miami Association of Realtors
- Board Member, Florida Association of Realtors, District 4
- City of Miami Beach Commission Candidate, 2015

### **Education**

Bachelor of Arts in Communication from the University of Alabama, 1991

### **About Scott**

Scott Diffenderfer is a Realtor who believes community involvement is the best business model.

Born and raised in Miami, Scott is a Broker Associate at Compass with more than 20 years of real estate experience and more than 35 years of marketing, fundraising, sales, and management experience. Scott is a world traveler and a designated Certified International Property Specialist (CIPS) who loves matching buyers from around the world to neighborhoods and buildings – and introducing them to the residents – so they feel instantly at home in Miami.

If you're not sure which neighborhood is right for you, or whether you want a house or a condo, Scott is the broker who can help you figure it out.

As a resident of Belle Isle in Miami Beach since 2004, Scott has facilitated many record-breaking sales in the neighborhood he calls home. He was very active in the Belle Isle Residents Association where he served as president for more than a decade.

In 2011 Scott became an LCAM (Licensed Community Association Manager) which has deepened his knowledge of condominium associations and helped him better serve the three condo boards on which he has been president. Scott has a unique perspective and can fully educate his buyers

on the complex issues related to purchasing a condo including property management, financial stability and assessments, mortgage financing and insurance requirements. He's currently leading his building through its 40-year recertification, a process he's been through before in his previous home.

Scott has been a member of the City of Miami Beach Design Review Board since 2020, and he represents the real estate industry on the City's FEMA Program for Public Information which has been instrumental in lowering flood insurance rates for residents and businesses in Miami Beach.

Scott currently leads the six member 3D Team in Compass's Miami Beach office.

## Scott Diffenderfer's Listings

Sales   Rentals



**\$1,695,000**

3 beds | 4 baths | 2,130 sqft

2110 North Ocean Boulevard, Unit 9D, Fort Lauderdale, FL 33305



**\$1,079,000**

2 beds | 2 baths | 1,403 sqft

20 Island Avenue, Unit 1001, Miami Beach, FL 33139



**\$995,000**

2 beds | 2 baths | 1,520 sqft

1 Century Lane, Unit 505, Miami Beach, FL 33139



**\$629,000**

2 beds | 2 baths | 1,316 sqft

780 Northeast 69th Street, Unit 1901, Miami, FL 33138

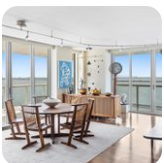
## Scott Diffenderfer's Transactions

### Past Sales

**\$5,000,000**

3 beds | 4 baths | 3,047 sqft

5875 Collins Avenue, Unit 1801/1802, Miami Beach, FL 33140

**\$3,275,000**

3 beds | 3 baths | 2,345 sqft

10 Venetian Way, Unit 2201, Miami Beach, FL 33139



**\$2,400,000**

3 beds | 4 baths | 2,826 sqft

9 Island Avenue, Unit T4, Miami Beach, FL 33139

**\$2,295,000**

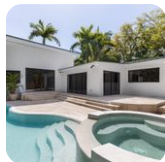
2 beds | 2 baths | 1,477 sqft

10 Venetian Way, Unit 1204, Miami Beach, FL 33139

**\$2,050,000**

3 beds | 4 baths | 2,201 sqft

2020 North Bayshore Drive, Unit 2902, Miami, FL 33137

**\$1,575,000**

4 beds | 4 baths | 2,271 sqft | 0.29 acres

85 Northwest 86th Street, El Portal, FL 33150

**\$1,375,000**

2 beds | 2 baths | 1,440 sqft

9 Island Avenue, Unit 604, Miami Beach, FL 33139

**\$1,350,000**

4 beds | 3 baths | 2,622 sqft | 0.19 acres

3765 Carmen Court, Miami, FL 33133

**\$1,330,000**

2 beds | 3 baths | 1,778 sqft

9 Island Avenue, Unit 2001, Miami Beach, FL 33139

**\$1,300,000**

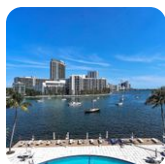
3 beds | 3 baths | 2,109 sqft

9 Island Avenue, Unit T5, Miami Beach, FL 33139

**\$1,300,000**

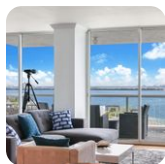
3 beds | 2 baths | 1,587 sqft

2901 South Bayshore Drive, Unit 4B, Miami, FL 33133

**\$1,260,000**

1 bed | 2 baths | 1,085 sqft

16 Island Avenue, Unit 4F, Miami Beach, FL 33139

**\$1,200,000**

2 beds | 2 baths | 1,463 sqft

10 Venetian Way, Unit 902, Miami Beach, FL 33139

**\$1,200,000**

2 beds | 2 baths | 1,440 sqft

9 Island Avenue, Unit 1405, Miami Beach, FL 33139

**\$1,196,000**

2 beds | 3 baths | 1,837 sqft

9 Island Avenue, Unit 915, Miami Beach, FL 33139

**\$1,190,000**

2 beds | 2 baths | 1,534 sqft

20 Island Avenue, Unit 618, Miami Beach, FL 33139

**\$1,180,000**

5 beds | 3 baths | 2,774 sqft | 0.23 acres

3767 Royal Palm Avenue, Miami Beach, FL 33140

**\$1,150,000**

3 beds | 3 baths | 2,388 sqft

9 Island Avenue, Unit 1814, Miami Beach, FL 33139

< 1 2 3 4 5 6 ... 9 >

## Past Rentals

**\$19,500**

3 beds | 4 baths | 2,133 sqft

6901 Collins Avenue, Unit 1202, Miami Beach, FL 33141

**\$12,000**

1 bed | 2 baths | 1,026 sqft

2201 Collins Avenue, Unit 1114, Miami Beach, FL 33139

**\$11,000**

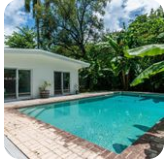
3 beds | 3 baths | 1,900 sqft

7850 Hawthorne Avenue, Miami Beach, FL 33141

**\$10,500**

2 beds | 3 baths | 1,600 sqft

400 Alton Road, Unit 2208, Miami Beach, FL 33139

**\$8,800**

4 beds | 2 baths | 1,464 sqft

3700 Loquat Avenue, Coconut Grove, FL 33133

**\$8,500**

2 beds | 3 baths | 1,600 sqft

400 Alton Road, Unit 2208, Miami Beach, FL 33139

**\$6,500**

4 beds | 3 baths | 2,110 sqft

157 Northeast 86th Street, El Portal, FL 33138

**\$6,200**

3 beds | 2 baths | 1,369 sqft

2831 South Bayshore Drive, Unit 2106, Miami, FL 33133

**\$6,000**

2 beds | 2 baths | 1,045 sqft

121 Northeast 34th Street, Unit 2502, Miami, FL 33137

**\$6,000**

2 beds | 2 baths | 1,403 sqft

20 Island Avenue, Unit 509, Miami Beach, FL 33139

**\$5,950**

2 beds | 3 baths | 1,778 sqft

9 Island Avenue, Unit 2001, Miami Beach, FL 33139

**\$5,500**

2 beds | 2 baths | 1,440 sqft

9 Island Avenue, Unit 1006, Miami Beach, FL 33139

**\$5,500**

2 beds | 2 baths | 1,403 sqft

20 Island Avenue, Unit 509, Miami Beach, FL 33139

**\$5,300**

2 beds | 2 baths | 1,154 sqft

9 Island Avenue, Unit 1702, Miami Beach, FL 33139

**\$5,000**

2 beds | 2 baths | 1,373 sqft

999 Southwest 1st Avenue, Unit 1712, Miami, FL 33130

**\$5,000**

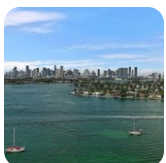
2 beds | 3 baths | 1,123 sqft

1040 Biscayne Boulevard, Unit 1806, Miami, FL 33132

**\$4,750**

2 beds | 2 baths | 1,484 sqft

11 Island Avenue, Unit 1210, Miami Beach, FL 33139

**\$4,700**

2 beds | 2 baths | 1,154 sqft

9 Island Avenue, Unit 2002, Miami Beach, FL 33139

[Compass](#) ▶ [Compass Agents](#) ▶ [Florida](#) ▶ [Miami Beach](#) ▶ Scott Diffenderfer

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- Private Exclusives
- Compass Coming Soon
- 3-Phased Marketing Strategy
- Compass One
- Make Me Sell
- Compass Luxury
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- Diversity & Inclusion
- Blog
- Neighborhood Guides
- New Development
- Commercial
- Sports & Entertainment
- Military
- External Suppliers Site
- Recently Sold Homes
- Sitemap

Mobile Apps



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Texas Real Estate Commission Information About Brokerage Services  
Texas Real Estate Commission Consumer Protection Notice

New York State Fair Housing Notice  
New York State Standard Operating Procedures  
Notice of Reasonable Accommodations for Prospective Tenants

Compass does not discriminate against voucher holders pursuant to applicable law and all lawful sources of income are accepted.

Exhibit “E”

375 foot Radius Maps for the Properties

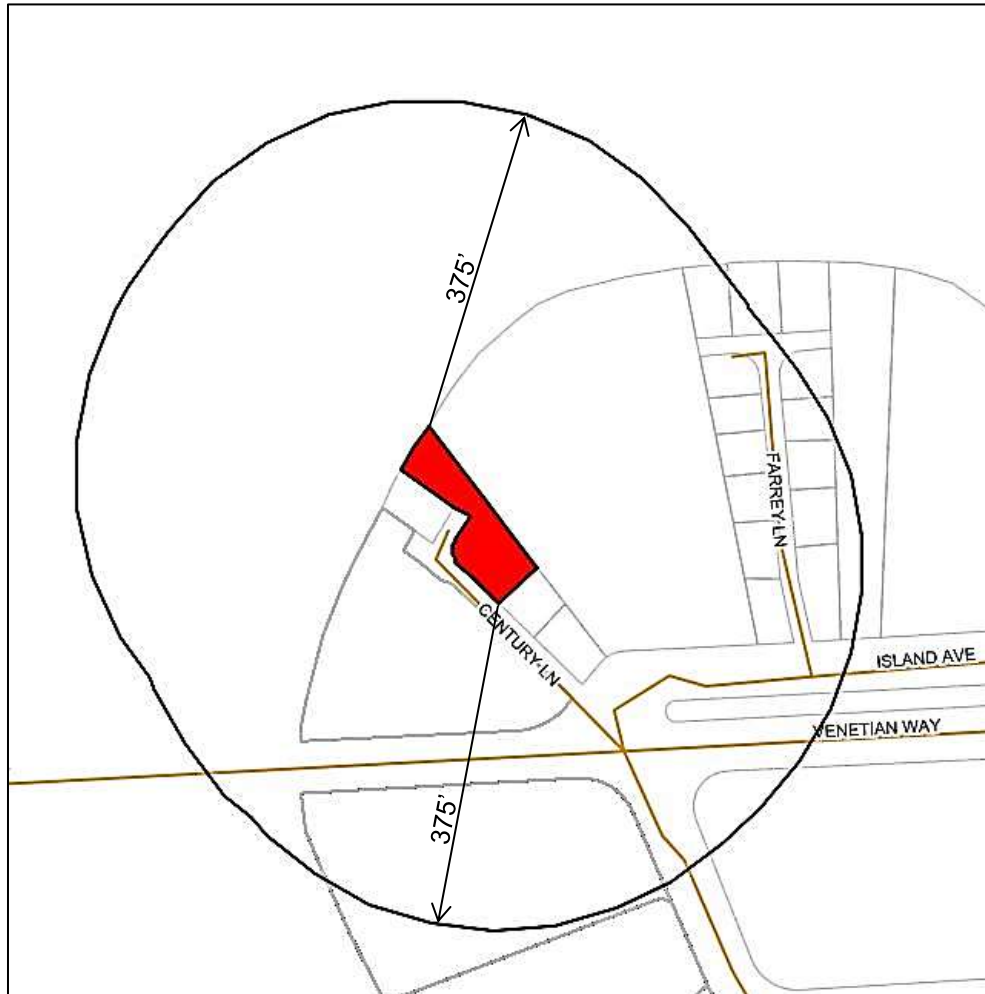




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rdrmiami.com | diana@rdrmiami.com | 305.498.1614

### 375' RADIUS MAP (N.T.S.)



**SUBJECT:** 8 Century Lane, Miami Beach, FL 33139  
**FOLIO NUMBER:** 02-3233-002-0080

**SUBJECT:** 9 Century Lane, Miami Beach, FL 33139  
**FOLIO NUMBER:** 02-3233-002-0090

**SUBJECT:** 10 Century Lane, Miami Beach, FL 33139  
**FOLIO NUMBER:** 02-3233-002-0100

Exhibit “F”

Belle Isle Residents Association Correspondence

**Freitas, Gabriela**

**From:** DRB

**Sent:** Monday, October 3, 2022 2:17 PM

**To:** Freitas, Gabriela

**Cc:** Belush, Michael

**Subject:** Fwd: Resolution related to DRB Applications DRB22-0841 & DRB22-0847 at the Design Review Board meeting @ 2022-10-04

**Attachments:** BIRA Century Lane resolution @ 2022-10-03.docx

**Follow Up Flag:** Follow up

**Flag Status:** Flagged

Hi Gaby,  
Can you please process?

Thanks,  
Jessica

**From:** Scott Van Hove <sjvanhove@live.com>

**Sent:** Monday, October 3, 2022 12:41:55 PM

**To:** jbodnar-drb@jbodnar.com <jbodnar-drb@jbodnar.com>; sheldondrb@gmail.com <sheldondrb@gmail.com>; ason@neuv.io <ason@neuv.io>; belleislerealtor@gmail.com <belleislerealtor@gmail.com>; sg221@yahoo.com <sg221@yahoo.com>; comasla.info@gmail.com <comasla.info@gmail.com>; agorlin@gorlinarchitects.com <agorlin@gorlinarchitects.com>; DRB <DRB@miamibeachfl.gov>; Mooney, Thomas <ThomasMooney@miamibeachfl.gov>

**Subject:** Resolution related to DRB Applications DRB22-0841 & DRB22-0847 at the Design Review Board meeting @ 2022-10-04

**[ THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS ]**

On behalf of the Belle Isle Residents Association (BIRA) Board of Directors, please find the resolution below (and attached) for your consideration.

Thank you.

The Board of Directors  
Belle Isle Residents Association

+++++

October 3, 2022

**Re: DRB Application Nos: DRB22-0841 & DRB22-0847  
8 & 10 Century Lane, Miami Beach**

**WHEREAS**, the Belle Isle Resident Association reached out to the City of Miami Beach Design Review Board and City Commissioners regarding concern over existing and pending construction on Century Lane, including pending DRB applications DRB22-0841 & DRB22-0847 for 8 and 10 Century Lane; and

**WHEREAS**, the pending DRB application DRB22-0841 for 8 Century Lane includes plans for a 5-story single family residence plus mezzanine with FAR of 5,346sq ft on a lot size of 4,599 sq ft requiring several variances; and **WHEREAS**, the pending DRB application DRB22-0847 for 10 Century Lane includes plans for a 5-story single family residence with FAR of 3,686sq ft on a lot size of 3,010 sq ft requiring several variances; and **WHEREAS**, the location of these properties in on Century Lane, which is a small and unique street of character on Belle Isle and currently home to The Vistas Condominium (a 48-unit six story building) and six one-story single-family homes; and

**WHEREAS**, Century Lane is a tiny alley-like street that is already non-conforming with inadequate width for two-way traffic, no outlet, no turnaround, no pedestrian sidewalks, no swale, and a problematic intersection for entering and existing from Venetian Way; and

**WHEREAS**, in addition to Century Lane being a tiny street for traffic patterns, there is also inadequate parking for existing residential single-family homes with three single family homes sharing one driveway and inadequate space for existing mail trucks, trash pick-up, delivery vans, landscaping trailers, contractors, and construction vehicles; and

**WHEREAS**, such congestions with limited space results in these vehicles illegally parking on Century Lane preventing two-way traffic including obstruction of entry and exit from driveways, parking garages and emergency exit stairwells; and

**WHEREAS**, this parking inadequacy and blockage of emergency stairwell exits creates dangerous circumstances which could result in personal safety and damage to personal property when trying to bypass vehicles blocking the roadway; and

**WHEREAS**, furthermore, the properties at 8 and 10 Century Lane fall under RM-1 Residential Multifamily Low Intensity ("RM-1") zoning designed for low intensity, low rise, single-family and multiple-family residences; and

**WHEREAS**, the owners and developers of these properties are using a loophole in the RM-1 zoning by trying to use zoning rules for multifamily properties to build single-family homes; and

**WHEREAS**, single-family residential districts and zoning rules in Miami Beach are "designed to protect, and preserve the identity, image, environmental quality, privacy, attractive pedestrian streetscapes, and human scale and character of the single-family neighborhoods and to encourage and promote new construction that is compatible with the established neighborhood context;" and

**WHEREAS**, single-family homes in Miami Beach are limited to a "maximum Building Height, which shall not exceed two stories above the base flood elevation;" and

**WHEREAS**, even with these single-family residential zoning rules the owners and developers of these properties are bypassing these rules through the loophole and have proposed 4 to 5 story single family homes; and

**WHEREAS**, given these are not multifamily properties and would not meet the minimum required lot area for such dwelling, the owners and developers should not be allowed to use multifamily zoning rules that were never intended for single family homes in a small quiet community; and

**WHEREAS**, the owners and developers of these properties knew the single-family zoning restrictions and the "small size and irregular shape of the properties" that create limitations on the footprint of a new construction property in this neighborhood; and

**WHEREAS**, a new single-family build of these sizes and structure would not be permissible on these limited lot sizes as neither 8 or 10 Century Lane meet the minimum required lot size of any residential zoning district in Miami

Beach; and

**WHEREAS**, in addition to not following the single-family residential zoning rules, the developers are requesting variances including lot size, setbacks and height under the multiple family properties rules with no legal hardship circumstances that would warrant such approval of variances; and

**WHEREAS**, any approval of these variances will create more congestion, loss of privacy and lack of canopy in an already tight neighborhood community; and

**WHEREAS**, the proposed plans for 8 and 10 Century Lane are not preserving the identity, environmental quality, privacy, scale or character of single-family neighborhoods, including that of Belle Isle; and

**WHEREAS**, the 5-story single family house currently under construction at 11 Century Lane should stand as an example of how out of character, out of scale and inappropriate the size of the structure is for the size of the lot and its location on Century Lane; and

**WHEREAS**, if these plans are approved, our little road and community on Century Lane will become a concrete jungle with even less privacy, character, natural light, and tree cover & landscape.

**WHEREAS**, further it is inevitable if these applications for development are approved, it will set a precedent for the excessive development of the remaining single-story homes and further exacerbate conditions on both Century Lane and other RM-1 locations on Miami Beach; and

**WHEREAS**, the residents of Century Lane and Belle Isle have expressed frustration that city officials and review boards have not denied this over construction or closed the RM-1 loophole before it is further abused by developers to overdevelop lovely residential neighborhoods with towering concrete single family structures on tiny lots; and

**WHEREAS**, Belle Isle Residents Association requests that you as a member of the City of Miami Beach Design Review Board or City Commissioner visit our lovely Century Lane to observe how inappropriate the size, scale and design of these structures will be on our tiny street in our quiet neighborhood.

October 3, 2022

**Re: DRB Application Nos: DRB22-0841 & DRB22-0847  
8 & 10 Century Lane, Miami Beach**

**WHEREAS**, the Belle Isle Resident Association reached out to the City of Miami Beach Design Review Board and City Commissioners regarding concern over existing and pending construction on Century Lane, including pending DRB applications DRB22-0841 & DRB22-0847 for 8 and 10 Century Lane; and

**WHEREAS**, the pending DRB application DRB22-0841 for 8 Century Lane includes plans for a 5-story single family residence plus mezzanine with FAR of 5,346sq ft on a lot size of 4,599 sq ft requiring several variances; and

**WHEREAS**, the pending DRB application DRB22-0847 for 10 Century Lane includes plans for a 5-story single family residence with FAR of 3,686sq ft on a lot size of 3,010 sq ft requiring several variances; and

**WHEREAS**, the location of these properties in on Century Lane, which is a small and unique street of character on Belle Isle and currently home to The Vistas Condominium (a 48-unit six story building) and six one-story single-family homes; and

**WHEREAS**, Century Lane is a tiny alley-like street that is already non-conforming with inadequate width for two-way traffic, no outlet, no turnaround, no pedestrian sidewalks, no swale, and a problematic intersection for entering and existing from Venetian Way; and

**WHEREAS**, in addition to Century Lane being a tiny street for traffic patterns, there is also inadequate parking for existing residential single-family homes with three single family homes sharing one driveway and inadequate space for existing mail trucks, trash pick-up, delivery vans, landscaping trailers, contractors, and construction vehicles; and

**WHEREAS**, such congestions with limited space results in these vehicles illegally parking on Century Lane preventing two-way traffic including obstruction of entry and exit from driveways, parking garages and emergency exit stairwells; and

**WHEREAS**, this parking inadequacy and blockage of emergency stairwell exits creates dangerous circumstances which could result in personal safety and damage to personal property when trying to bypass vehicles blocking the roadway; and

**WHEREAS**, furthermore, the properties at 8 and 10 Century Lane fall under RM-1 Residential Multifamily Low Intensity ("RM-1") zoning designed for low intensity, low rise, single-family and multiple-family residences; and

**WHEREAS**, the owners and developers of these properties are using a loophole in the RM-1 zoning by trying to use zoning rules for multifamily properties to build single-family homes; and

**WHEREAS**, single-family residential districts and zoning rules in Miami Beach are “designed to protect, and preserve the identity, image, environmental quality, privacy, attractive pedestrian streetscapes, and human scale and character of the single-family neighborhoods and to encourage and promote new construction that is compatible with the established neighborhood context;” and

**WHEREAS**, single-family homes in Miami Beach are limited to a “maximum Building Height, which shall not exceed two stories above the base flood elevation;” and

**WHEREAS**, even with these single-family residential zoning rules the owners and developers of these properties are bypassing these rules through the loophole and have proposed 4 to 5 story single family homes; and

**WHEREAS**, given these are not multifamily properties and would not meet the minimum required lot area for such dwelling, the owners and developers should not be allowed to use multifamily zoning rules that were never intended for single family homes in a small quiet community; and

**WHEREAS**, the owners and developers of these properties knew the single-family zoning restrictions and the “small size and irregular shape of the properties” that create limitations on the footprint of a new construction property in this neighborhood; and

**WHEREAS**, a new single-family build of these sizes and structure would not be permissible on these limited lot sizes as neither 8 or 10 Century Lane meet the minimum required lot size of any residential zoning district in Miami Beach; and

**WHEREAS**, in addition to not following the single-family residential zoning rules, the developers are requesting variances including lot size, setbacks and height under the multiple family properties rules with no legal hardship circumstances that would warrant such approval of variances; and

**WHEREAS**, any approval of these variances will create more congestion, loss of privacy and lack of canopy in an already tight neighborhood community; and

**WHEREAS**, the proposed plans for 8 and 10 Century Lane are not preserving the identity, environmental quality, privacy, scale or character of single-family neighborhoods, including that of Belle Isle; and

**WHEREAS**, the 5-story single family house currently under construction at 11 Century Lane should stand as an example of how out of character, out of scale and inappropriate the size of the structure is for the size of the lot and its location on Century Lane; and

**WHEREAS**, if these plans are approved, our little road and community on Century Lane will become a concrete jungle with even less privacy, character, natural light, and tree cover & landscape.

**WHEREAS**, further it is inevitable if these applications for development are approved, it will set a precedent for the excessive development of the remaining single-story homes and further exacerbate conditions on both Century Lane and other RM-1 locations on Miami Beach; and

**WHEREAS**, the residents of Century Lane and Belle Isle have expressed frustration that city officials and review boards have not denied this over construction or closed the RM-1 loophole before it

is further abused by developers to overdevelop lovely residential neighborhoods with towering concrete single family structures on tiny lots; and

**WHEREAS,** Belle Isle Residents Association requests that you as a member of the City of Miami Beach Design Review Board or City Commissioner visit our lovely Century Lane to observe how inappropriate the size, scale and design of these structures will be on our tiny street in our quiet neighborhood.



Exhibit “G”

Miami-Dade County Commission on Ethics Opinion 02-58



May 23, 2002

James Cueva  
15053 S.W. 43rd Lane  
Miami, FL 33185

**ETHICS COMMISSIONERS**

Kerry E. Rosenthal, Chairman  
Robert H. Newman, Vice Chairman  
Gail Dotson  
Guillermo Grenier  
Elizabeth M. Iglesias

**ROBERT A. MEYERS**  
EXECUTIVE DIRECTOR

**MICHAEL P. MURAWSKI**  
ADVOCATE

**ARDYTH WALKER**  
STAFF GENERAL COUNSEL

**RE: REQUEST FOR ADVISORY OPINION 02-58**

Dear Mr. Cueva:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on May 22, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your ability to vote and participate in a matter involving the Lakes of the Meadow Subdivision.

In your letter, you advised the Commission that you are Chair of the Miami-Dade County Unsafe Structures Board. The board is a quasi-judicial body that reviews the decisions of building officials regarding structures deemed unsafe under the South Florida Building Code.

On May 29<sup>th</sup>, the Board will hold a special meeting to consider a case involving the Lakes of the Meadows Village Homes Condominiums. Although you do not live in the condominiums, you live in a home in the Lakes of the Meadow development. Your grandparents own the home. The development has one homeowner's association.

The Commission found that although no legal conflict exists, an appearance of a conflict will arise if you participate and vote on matters involving the Lakes of the Meadow subdivision. Section 2-11.1(v) provides that "no person included in the terms defined in subsections (b) (3) (quasi-judicial personnel)

The Commission found that although no legal conflict exists, an appearance of a conflict will arise if you participate and vote on matters involving the Lakes of the Meadow subdivision. Section 2-11.1(v) provides that "no person included in the terms defined in subsections (b)(3)(quasi-judicial personnel) or (b)(4)(advisory personnel) shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits and if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary, or beneficiary; or (ii) stockholder, bondholder, debtor or creditor." Since you do not have any of the relationships enumerated in the ordinance with the subdivision, you are not prohibited from chairing the meeting or voting on issues related to the development. However, an appearance of a conflict of interest will arise if you vote on matters involving a place where you reside and your grandparents own property. Therefore, you may abstain from chairing the meeting and voting on the issue.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Exhibit “H”

Miami-Dade Commission on Ethics INQ 2022-73

## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

### COMMISSIONERS

Nelson C. Bellido Esq., CHAIR  
Dr. Judith Bernier, VICE CHAIR  
Judge Lawrence A. Schwartz  
Wifredo "Willy" Gort  
Charlton Copeland, Esq.



### EXECUTIVE STAFF

Jose J. Arrojo  
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April 27, 2022

Via email only to expedite delivery:  
DJove@hialeahfl.gov

Lorena Bravo, Esq.  
City Attorney

David Jove, Esq.  
Assistant City Attorney

City of Hialeah  
501 Palm Avenue  
Hialeah, Florida 33010

Re: Ethics Inquiry Request, INQ 2022-73, Voting Conflict, Section 2-11.1(d) of the County Ethics Code

Dear Ms. Bravo and Mr. Jove:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust ("county ethics commission" or "Ethics Commission") and seeking guidance regarding the application of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance ("County Ethics Code") to a Hialeah Councilmember's possible vote on a requested zoning variance relating to the expansion of a behavioral health hospital.

### Facts:

The City of Hialeah Council will be considering a zoning variance application filed by an existing behavioral health hospital.

The hospital is located at 4225 West 20<sup>th</sup> Avenue, Hialeah, Florida, in a commercial area. It faces east on West 20<sup>th</sup> Avenue. West 20<sup>th</sup> Avenue runs north/south immediately parallel to and west of the Palmetto Expressway. The hospital is just south of West 41<sup>st</sup> Street, a major multilane

throughfare. The property is surrounded, to the north, south, northwest, and west, respectively, by a large educational institution with multilevel covered parking, other healthcare facilities, a church and church school, and a townhouse development.

Broadly stated, the applicant seeks to expand from its current 36,950 square feet and 72 beds by a proposed 10,840 square feet and an additional 20 beds. (approximately 30% increase in size and 28% increase in number of beds). The additional structure will be two stories in height and located on the southwest corner of the existing lot. Concerns regarding additional parking are addressed by the applicant by leasing spaces from the adjacent educational institution's multilevel parking garage.

The City's professional staff and zoning board have recommended approval of the variance with some modifications to existing windows and drainage capacities.

There is a residential townhouse development that is located on an area that from satellite maps appears to be just less than 2 square blocks in size. There appear to be between 125 and 130 units in the development. The development is walled and there is no direct ingress or egress from the development to the hospital property.

A Hialeah Councilmember lives in the townhouse development.

Issue:

Whether a Hialeah Councilmember who lives in a townhouse development that is just west of a behavioral health hospital may participate and vote on a proposed zoning variance sought by the hospital to increase its size by approximately 30% and number of beds by approximately 28%.

Discussion:

As regards future consideration and votes on matters as a Councilmember, the member's actions are governed by the County Ethics Code inasmuch Section 2-11.1(b)(1) of the County Ethics Code applies to members of County and municipal elected legislative bodies.

The county voting conflict provision is contained in Section 2-11.1(d) of Miami-Dade County Code. The provision is stricter than that which is contained State Ethics Code. The county provision provides that a voting conflict exists if the voting member "would or might, directly or indirectly, profit or be enhanced by the action..." as opposed to the state standard contained in Section 112.3134 (3) (a), Florida Statutes, that limits the county or municipal public officer from voting upon any measure "which would inure to his or her special private gain or loss." <sup>1</sup>

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<sup>1</sup> RQO 15-04 (As allowed by state law, the Board of County Commissioners has established a more stringent standard of conduct as regards the local voting conflict provision than exists under state law. The county voting conflict law specifically provides that a voting conflict may exist when an official "might, directly or indirectly profit or be enhanced" by a vote. The County standard does not require a definite or measurable private gain or loss and may apply where there is a reasonable possibility or expectation of such and effect.)

The specific text of the county voting conflict provision contains three clauses that describe scenarios which may give rise to a voting conflict.

That section provides, in relevant part, that a local elected official may not:

[Vote] on or participate in any way in any matter presented...if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board...(i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or

[if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board] (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person...in a manner distinct from the manner in which it would affect the public generally.

...or who would or might, directly or indirectly, profit or be enhanced by the action of the Board...

Consequently, officials may be prohibited from voting on a measure if they have a first tier enumerated relationship with a party who would or might be directly or indirectly affected by any action of the board.<sup>2</sup> If such a relationship exists, an “automatic conflict of interest” arises, and the official is barred from voting.

Also, officials may be prohibited from voting on a measure if they have a second tier enumerated relationship with a party who would or might be directly or indirectly affected by any action of the board, if the transaction or matter would affect the person...in a manner distinct from the manner in which it would affect the public generally.<sup>3</sup> If such a relationship exists, a “contingent conflict of interest” arises, and the official is barred from voting.

Finally, officials may also be prohibited from voting if the official would or might, directly or indirectly, profit or be enhanced by the action of board. If such, then a “broad voting conflict” exists pursuant to the third clause in the local voting conflict provision and the official is barred from voting.

In applying the state voting conflict provision to zoning or development matters, the Florida Commission on Ethics (“state ethics commission”) has utilized a series of tests to determine whether an official has a voting conflict. The County Ethics Commission has utilized some of

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<sup>2</sup> The first tier enumerated relationships are officer, director, partner, of counsel, consultant, employee, fiduciary, or beneficiary.

<sup>3</sup> The second tier enumerated relationships are stockholder, bondholder, debtor, or creditor.

these same tests to determine whether a vote on a zoning matter will create a prohibited conflict for a local official.

One test is the “unique impact” test. The unique impact test is used to determine whether a vote on a measure will impact a the official exclusively or as a member of a small class and give rise to a voting conflict as opposed to a less unique impact on the official as part of a large class when no conflict would exist.

Another test is the “remote benefits” test. The remote benefits test is used to determine whether a vote will result in an actual or immediate benefit or loss inuring to the official that creates a voting conflict as opposed to a remote or speculative benefit or loss that would not result in a conflict.

Related to the unique impact test is the “1%” test. The 1% test is used to determine whether the official owns more than 1% of the properties that would be impacted. If so, then it is more likely that the official will be uniquely impacted.<sup>4</sup> Of necessity, the unique impact test considers the proximity between the area that will be impacted by the measure and the voting official’s property.

In opinions concerning voting conflicts arising from traffic mitigation as well as zoning measures, the Ethics Commission has applied both the unique impact and remote benefits tests.<sup>5</sup> The Ethics Commission has used the 1% analysis used by the state ethics commission in voting conflict cases involving quasi-judicial zoning measures and in local voting conflict cases involving traffic mitigation measures.<sup>6</sup>

Analyzing opinions issued by the state and county ethics commissions applying the state and county voting conflict provisions, respectively, to determine voting conflicts arising from zoning measures and greater traffic mitigation matters, as well as statutes and case law applying to local

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<sup>4</sup> No voting conflict was presented in situations where the interests of the public official involved one percent or less of the class. CEO 78-96 (38 out of 5,000 acres involved); CEO 84-80 (1 out of 500 persons whose property would be down zoned); CEO 85-5 (90% of 250 residents affected); CEO 87-18 (300 out of 29,000 acres); CEO 91-18 (385 other property owners in the area affected by varying degrees); CEO 92-52 (owner of two five-acre parcels out of 276 parcels of varying size affected by a 4.5 mile road-widening project); and CEO 96-12 (owner of four non-residential parcels out of 605 similar parcels affected by a proposed convention center project.)

<sup>5</sup> INQ 18-70 (The Ethics Commission has not adopted the standards used by the state ethics commission in determining whether a voting conflict exists, but it has considered whether a loss or gain to the voting official would be too remote or speculative to create a voting conflict.)

<sup>6</sup> See generally RQO 10-20 (Key Biscayne council member did not have a prohibited voting conflict voting on a zoning matter because he was one of 1500 property owners affected (.06%) and therefore his interest did not reach the threshold of 1% of the size of the class that would generally create a voting conflict.)



zoning changes <sup>7</sup>, the Ethics Commission will apply the following several tests in order to determine if a voting conflict exists:

1. Whether the voting official's property abuts, adjoins or is otherwise in close proximity to the property impacted by the zoning variance or traffic mitigation plan.
2. Whether the voting official owns 1% or more of the properties that would be impacted by the zoning variance or traffic mitigation plan.
3. Whether the zoning variance or traffic mitigation plan will significantly increase or decrease traffic in the area proximate to the voting official's property.
4. Whether the zoning variance or traffic mitigation plan will significantly change the character of the official's neighborhood, including changes in densities or intensities of development.
5. Whether the zoning variance or traffic mitigation plan would create a financial benefit or detriment to the official and whether that benefit or detriment is remote and speculative.

Conclusion:

Applying the reasoning of referenced opinions and law cited above to the instant case, it is noteworthy that the Councilmember lives in a development that is immediately west of the hospital site. Indeed, the member lives in the only residential development that abuts the hospital.

There are approximately 125 to 130 units in the townhouse development, the member owns and lives in one unit. Using 125 as the number of units for this analysis, the member is one of 125 property owners affected (.08%) and therefore, while close, the member's interest did not reach the threshold of 1% of the size of the class that would generally create a voting conflict.

There may be more traffic in the area due to the increase in patient beds and possible concurrent increase in staff or visitation, however, this is not addressed in the City's professional staff planner's recommendation for variance.

The hospital already exists, and it is located in area where there are other health care providers, schools, churches, and a multilevel parking structure. There is no new use proposed use by the

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<sup>7</sup> See generally Renard v. Dade County, 261 So.2d 832 (Fla. 1972); and Section 163.3215(2), Florida Statutes ("As used in this section, the term "aggrieved or adversely affected party" means any person or local government that will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons.")

hospital, rather a proposed increase in size of the structure and potential volume of use. It does not appear that the variance will significantly change the character of the official's neighborhood.

Finally, while having a larger mental health facility, one that will have a new two-story addition, next to a single-family townhouse development, might create a financial detriment to residential property owners, there are no facts provided by the City staff that support this proposition. As such, for purposes of this opinion, any financial impact to the member would be remote or speculative.

Consequently, based on the facts provided, while a close call given the proximity between the property owner seeking the zoning variance and the member's residence, it does not appear that the official would or might, directly or indirectly, profit or be enhanced by the action of board. Again, on the facts provided, any impact would be negligible, speculative, or would impact a relatively large class of persons. There does not appear to be a "broad voting conflict" pursuant to the third clause in the local voting conflict provision and the official is not barred from voting.

The County's Conflict of Interest and Code of Ethics provides a minimum standard of conduct for public officials. It does not directly address "appearance of impropriety" issues that should guide the actions of all public servants, nor does it address the subjective mindset of a public official who, for reasons outside of the Code, does not feel capable of being fair or objective in a particular matter, due to personal considerations or recent financial arrangements. Any public official under such circumstances must use his or her own judgment in determining the proper course of action when conducting public business.

While the County Ethics Commission does not have jurisdiction to interpret state statutes, the voting conflict provision contained in the Code of Ethics for Public Officers and Employee's ("state voting conflict provision") provides that officials are required to vote on measures coming before their board unless there exists a possible conflict of interest under the state ethics code or a local ethics code that imposes more stringent standards.<sup>8</sup> The state voting requirement provision provides in relevant part as follows:

A member of a state, county, or municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may not abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under s. 112.311, s. 112.313, s. 112.3143, or additional or more stringent standards of conduct, if any, adopted pursuant to s. 112.326. *If the official decision, ruling,*

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<sup>8</sup> "Additional requirements by political subdivisions and agencies not prohibited. Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part." (Section 112.236, Florida Statutes)

*or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice. (Section 286.012, Florida Statutes) (Emphasis added)*

The state voting requirement provision allows local officials more discretion in abstaining from a vote if the measure under consideration arises from a quasi-judicial as opposed to a legislative matter. Consequently, when considering a zoning matter in a quasi-judicial setting, a local official may abstain from a vote even if voting on the measure would not inure to his or her special private gain or loss or otherwise not constitute a conflict under a local ethics code.

If the voting member in this case believes that he or she would avoid an appearance of impropriety by declining to vote on the zoning variance request made a property owner that is next door to his residential complex, and that abstention is appropriate to assure a fair proceeding free from potential bias or prejudice, then perhaps it is advisable that he or she should decline to vote or participate on the matter.

We hope that this opinion is of assistance, and we remain available to discuss any matters addressed in this letter, if necessary

Sincerely,

A handwritten signature in blue ink, appearing to read "Arrojo", is written over a faint, larger signature.

Jose J. Arrojo  
Executive Director

cc: All Commission on Ethics Attorneys

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.