



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Wilbur B. Bell,
Sub Area 143 Member,
Community Council Board Member District 14

FROM: Etta Akoni, Staff Attorney
Miami Dade County Commission on Ethics & Public Trust

SUBJECT: INQ 2023-131 [Advisory Board Member Contracting with County, Sec 2-11.1 (c)(3)]

DATE: September 26, 2023

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“COE”) and requesting our guidance regarding potential conflicts of interest and limitations in applying for and accepting a Commercial Rehabilitation Grant from the West Perrine Community Redevelopment Agency, while also serving as a member of the Community Council Board for District 14.

Facts

Mr. Wilbur B. Bell is a trustee for the Wilbur B Bell Living Trust, a revocable trust that functions as a for profit real estate holding entity and owns ten (10) properties in Miami Dade County. As trustee, Mr. Bell’s primary responsibility is to manage the properties owned by Wilbur B Bell Living Trust.

Mr. Bell also serves as the Sub Area 143 member for the Miami Dade County Community Council Board for District 14. The Board of County Commissioners (BCC) created Community Councils in 1996. Each council serves one of ten geographic areas in unincorporated Miami-Dade County and is comprised of six members elected by the community and one appointed by the BCC. Community Councils were primarily created to make zoning and land use decisions in a setting more accessible to the community. Community Councils also serve as advisory liaisons from their communities to the Board of County Commissioners and County staff, relaying relevant information and recommendations on selected concerns of the council area. Community Councils make recommendations to the County Commission on capital, programming, and operational

priorities for municipal services such as police, parks, fire and roadway maintenance in their area, as well as relaying other concerns and needs of local residents.

Created in 2007 by the Miami Dade County Board of County Commissioners, The West Perrine Community Redevelopment Agency (“WPCRA”) is an urban initiative to stimulate and guide redevelopment while creating better neighborhoods to live, work and play.¹ The CRA helps to address urban slum and blight through redevelopment initiatives and incentivized economic development within the area. One such initiative is the Residential Rehabilitation Program grant and the Commercial Rehabilitation Program grant. The WPCRA is an extension of the Miami Dade County Board of County Commissioners and functions as a semi-autonomous agency, therefore the WPCRA is within the jurisdiction of Section 2-11.1 of the Code’s Conflict of Interest and Code of Ethics Ordinance.² *See* INQ 19-78.

According to Jason Rodriguez, Senior Business Analyst for the Miami Dade County Office of Budget and Management who works with the WPCRA, and Mr. Bell, there are no interactions between District 14 Community Council Board and the WPCRA. The two entities do not conduct any business together nor do they have any interaction in their individual operations and capacities. WPCRA and the sub area 143 of the Community Council Board for District 14 serve the same south Miami-Dade County community which is located West of South Dixie Highway, South SW of 168th Street, East of the Florida Turnpike below SW 184th Street, East of SW 107th Avenue between SW 168th Street and SW 176th Street, East of SW 108th Court between SW 175th Terrace and SW 180th Street,

¹ In 1969, the Florida Legislature enacted the Community Redevelopment Act of 1969, as it is presently contained in Part III of Chapter 163, Florida Statutes, as amended (the Act). The Act authorizes counties and municipalities in the State of Florida to create community redevelopment agencies, to prepare redevelopment plans for certain defined areas within their boundaries designed as community development areas, in which community redevelopment projects may be undertaken to eliminate and prevent the development and spread of slum and blighted areas through the use of creative financing mechanisms. The Act also authorizes the County to delegate redevelopment powers at the discretion of the County, after a finding has been made determining that slum and blight exists within a defined area.

On March 1, 2005, the Board of County Commissioners adopted R-212-05, accepting the Finding of Necessity study which demonstrated the existence of slum and blight; and substantiated that the area meets the State’s requirements to create a CRA pursuant to Chapter 163, Part III, Florida Statutes. On June 5, 2007, the Board of County Commissioners adopted R-745-07, which appointed themselves to serve as the Board of the West Perrine Community Redevelopment Agency in order to adopt the West Perrine Community Redevelopment Plan and undertake redevelopment of the West Perrine Community Redevelopment Area in accordance with the Plan. A citizen’s board was later appointed, but through R-745-07 the BCC reserves the right to retain certain powers and delegate only limited powers.

² Pursuant to Florida Statutes Sections 163.358, 163.410, and Miami Dade County Resolution R-745-07, the creation, funding, and powers of the West Perrine Community Redevelopment Agency originates and flows from the Board of County Commissioners. West Perrine Community Redevelopment Agency carries on 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.” *See* Miami Dade Code Section 2-11.1 (b) (2).

East of SW 112th Avenue between SW 180th Street and SW 181th Terrace, and East of SW 112th Court between SW 181th Terrace and SW 184th Street

The Residential Rehabilitation Program grant provides up to \$15,000 per applicant to assist residential properties owners with upgrades, improvements, and bringing properties back into code compliance, giving priority to owner-occupied dwellings. The Commercial Rehabilitation Program grant provides up to \$25,000 per applicant to assist commercial and industrial property owners in upgrading their existing properties in the West Perrine area to enhance visibility and area aesthetics in an effort to bring about increased property values and attract new business.

The Wilbur B Bell Living Trust plans to apply for the Commercial Rehabilitation grant by WPCRA. The Wilbur B. Bell Living Trust plans to use the grant from the West Perrine Community Redevelopment Agency to rehabilitate the electricity, roof, air conditioning, and refrigeration of three (3) of its properties³, in accordance with CRA rules and regulations.

Issue

Whether a conflict of interest exists that would prohibit Wilbur B Bell Living Trust and Wilbur B Bell, its trustee, from applying for and accepting a Commercial Rehabilitation grant from the West Perrine Community Redevelopment Agency, due to Mr. Bell's service as a member of the Community Council Board for District 14.

Discussion

Sections 2-11.1(c) and (d) of the County Ethics Code addresses limitations and prohibitions on board members doing business with the County. Specifically, Section 2-11.1(c)(3) provides that a board member may enter into a contract with Miami Dade County individually or through a firm, corporation, partnership or business entity in which the board member or his immediate family has a controlling financial interest, as long as the board member does not contract with a County department or agency which is subject to being regulated, overseen, managed, engaged in policy-setting or quasi-judicial authority of the member's board agency. *See* RQO 09-22, INQ 19-78.

Similar to this matter, in INQ 23-168, COE staff found that no conflict of interest resulted from a Miami Dade County Advisory Board member's submission of a bid, through her company, for a Miami Dade County solicitation to establish a prequalified pool of vendors that will be invited to participate in future spot-market competitions for janitorial supplies because the Advisory Board on which she served did not oversee the contract, she did not

³ The three (3) properties owned by the Wilbur B Bell Living Trust that the Commercial Rehabilitation Grant will be applied to are 17452 SW 104 Avenue, Miami, Florida 33157; 174900 SW 104 Avenue, Miami, Florida 33157; 17500 SW 104th Avenue, Miami, Florida 33157.

make presentations or seek any benefits for herself or others from the Advisory Board on which she served, and she did not vote on any matter where she would be directly affected by the vote while having an enumerated relationship with the entity appearing before the Advisory Board on which she serves. *See Also* 23-11, 23-12, 23-13, 23-22, 23-24, 23-27, 23-30, 23-52, 23-59, 23-90, 23-107, 23-123, 23-108, and 23-165.

Additionally, in INQ 19-78, a member of the Naranja CRA and the Miami Dade County Value Adjustment Board contracted with the County, through his for-profit corporation, for grant funds to develop a food hall within the Naranja CRA area. Since the Naranja CRA did not oversee, regulate, administer, manage, set policy, or make quasi-judicial decisions regarding the project or the grant, COE staff found that there was no conflict of interest in the contract with the County to develop the food hall as long as limitations found in the County Ethics Code were followed.

Conclusion:

Based on the facts presented here and discussed above, no conflict of interest arises from Wilbur B Bell Living Trust and Wilbur B Bell, its trustee, from applying for and accepting a Commercial Rehabilitation grant from the West Perrine Community Redevelopment Agency, due to Mr. Bell's service as a member of the Community Council Board for District 14.

However, you must adhere to the limitations provided below to avoid potential conflicts of interest:

- Section 2-11.1(m)(2) **prohibits a board member from appearing before the board in which he or she serves, either directly or through an associate**, and make a presentation on behalf of a third party. *See* RQO 07-39; INQ 17-254. This means you must not lobby or try to influence your board for the benefit of your company. *See* INQ 13-224. The Ethics Commission has interpreted these prohibited appearances to include signing proposals or submitting documents or correspondence on behalf of the third party. *See* INQ 09-33; INQ 11-178. Additionally, this Ethics Code section prohibits a board member from receiving compensation, *directly or indirectly or in any form*, for any services rendered to the third party seeking a benefit from his or her Board. *See* RQO 07-12; INQ 15-229; INQ 19-12.
- Section 2-11.1(v) 3 prohibits a board member from voting on any matter where the member will be directly affected by the vote and has a prohibited relationship (i.e., officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor) with any corporation, firm, entity or person appearing before the member's board or committee. *See* RQO 07-39; INQ 17-69.
- Section 2-11.1(n) prohibits a board member from participating in any official action, as a member of the Board, directly or indirectly, affecting a business in

which you or a member of your immediate family has a financial interest. *See* INQ 19-78.

- Section 2-11.1(g) prohibits a board member from using his or her official position to secure special benefits, privileges or exemptions for herself or others. In other words, while a board member may share his or her knowledge and expertise in related matters, said board member may not use his or her service on the board to proffer or promote the use or sale of the board member's company or products. *See* INQ 21-121.

We appreciate your consulting with the Commission in order to avoid a possible prohibited conflict of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. Based on directives from state law, other conflicts may apply. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

Please submit this opinion to the Strategic Procurement Department for inclusion in your submission file. The Commission on Ethics does not submit this memorandum on your behalf.

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 Commission on Ethics 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.