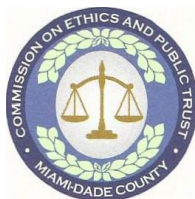


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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December 15, 2023

Marvin Weeks, Chairman
City of Miami Arts and Entertainment Council
Delivered via email to: nuarc7@yahoo.com

Re: INQ 2023-163; Section 2-11.1(c)(3), Miami-Dade Conflict of Interest and Code of Ethics; Section 2-611 and 2-612, City of Miami Conflicts of Interest Code

Dear Mr. Weeks,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible conflicts of interest between your service on the City of Miami Arts and Entertainment Council and your acceptance of an artist’s commission to paint a mural on a privately-owned business that may receive funding for the beautification project from the City of Miami Southeast Overtown Park West Community Redevelopment Agency (“SEOPW CRA”).

Facts

You serve as the chairman of the Miami Arts and Entertainment Council (“AEC”). The AEC is a City of Miami board established by City of Miami Code Section 2-1140 for the purpose of advising the City mayor, commission and manager on the appropriateness, cost, location of art to be accepted or acquired by the City. The AEC has no administrative, oversight or advisory authority over the SEOPW CRA and does not advise the SEOPW CRA on funding or project selection.

You are also an artist. You have been asked by a local merchant to prepare a project to beautify the business location by painting a mural. The merchant is in discussions with the SEOPW CRA to obtain funding for this beautification project. You do not work for SEOPW CRA and you are not applying directly to SEOPW CRA for funding.

The SEOPW CRA is an independent legal entity created pursuant to Chapter 163, part III, Florida Statutes; it is not an agency or instrumentality of Miami-Dade County or the City of Miami.¹ After the creation of the SEOPW CRA, the County, the City, and the SEOPW CRA executed an interlocal cooperation agreement which governs the relationship between the parties.

Pursuant to a 2016 County resolution, Resolution No. R-499-16, the County is required to negotiate with CRAs located within the County to include provisions enumerated in the resolution including compliance with the County Ethics Code. In the case of the SEOPW CRA, the City, the County, and the SEOPW CRA have not reached an agreement to amend the interlocal agreement to include any provisions set forth in Resolution No. R-499-16. Thus, the SEOPW has not entered into any agreement to be bound by the County Ethics Code. *See* INQ 21-113; INQ 11-18; INQ 10-121, and 09-158.

Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance or the City of Miami Conflicts of Interest Code would prohibit you from accepting a mural-painting commission from a private party who is or may be receiving funding from the SEOPW CRA to cover the costs of mural.

Analysis

Section 2-11.1(c)(3) of the County Ethics Code prohibits City board members from contracting with any City agency or department subject to the regulation, oversight, management, policy setting or quasi-judicial authority of the board of which the person is a member. The City Conflicts of Interest Code prohibits board members from transacting any business with the city or with any city agency, with a few exceptions that do not apply in this case. *See* Section 2-162(a), City of Miami Conflicts of Interest Code. The City Code also prohibits board members from appearing before any board, commission or agency of the City on behalf of third parties. *Id.* However, these codes do not apply to the transaction you have described because the SEOPW is not a County or City Board. Rather, it is an independent agency created by Florida Statutes; it is covered by the State of Florida Ethics Code;² and it has not entered into any interlocal agreement to be bound by the County Ethics Code.³ Consequently, this matter does not fall within the jurisdiction of the

¹ Pursuant to Chapter 163, part III, Florida Statutes, the Miami-Dade Board of County Commissioners (“County Commission”) delegated to the City of Miami the power to create the SEOPW. After the creation of the SEOPW CRA, the County, the City and the SEOPW executed an interlocal cooperation agreement which governs the relationship between the parties. This agreement was executed prior to the County Commission’s adoption of Resolution No. R-499-16, which sets forth certain policies related to community redevelopment agencies.

² Florida Statutes Chapter 112, Part III (2023).

³ Miami-Dade County Resolution No. R-499-16 requires the County Mayor or the County Mayor’s designee to negotiate with each community redevelopment agency the inclusion of the provisions set forth in the resolution in the community redevelopment agency’s interlocal agreement, including, but not limited to, that the community redevelopment agency will comply with the County’s Code of Ethics. The COE is advised that the SEOPW CRA, the City, the County, and the SEOPW CRA have not reached an agreement to amend the interlocal agreement to include many of provisions set forth in Resolution No. R-499-16. Thus, the SEOPW CRA has not entered into any agreement that it will agree to be bound by the County Ethics Code. It is notable that even if Miami-Dade County were able to

Miami-Dade Ethics Commission. Therefore, neither the County Ethics Code nor the City Conflicts of Interest Code would limit you from applying for or accepting a commission from a private entity that may be funded in whole or in part by the SEOPW CRA. Additionally, the attenuated nature of the transaction you have described would be unlikely to implicate either Code, were they to apply, as long as you did not appear personally on behalf of the private entity that has sought to commission you to paint the mural.

Opinion

The transaction you have described does not violate either the County Ethics Code or the City Conflicts of Interest Code because neither apply to transactions involving the SEOPW CRA.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply under state law. 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/>.

Sincerely,

Susannah Nesmith

Susannah Nesmith

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 this is an informal opinion, 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.

reach an agreement, the SEOPW CRA will remain an independent agency and will not be deemed an agency or instrumentality of Miami-Dade County or the City of Miami.