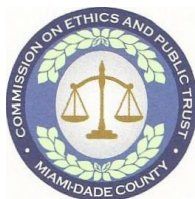


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May 23, 2023

Melissa Dynan
Government Liaison Consultant
Friends of the Commodore Trail
Sent via email to: 007meld@gmail.com

Re. INQ 2023-60, Lobbying, Section 2-11.1, Miami-Dade Ethics Code

Dear Ms. Dynan,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the lobbyist registration requirements and whether they apply to yourself, members of your volunteer board and other volunteers with your organization who may meet with county and city personnel to discuss improvements to and maintenance of the Commodore Trail.

Facts

Your organization, Friends of the Commodore Trail, would like to include volunteers in meetings between you, members of your volunteer Board of Directors and Miami-Dade County personnel. Friends of the Commodore Trail is a non-profit, community-based organization dedicated to promoting and improving Commodore Trail, an historic walking and bike path running from the Miami River through Coconut Grove to the edges of Coral Gables. The meetings you and the Friends volunteers would attend are for the purpose of discussing maintenance issues on the Trail, funding that has already been allocated and potential grant funds that may be available from state and federal sources. You are not seeking additional funding for Commodore Trail from Miami-Dade County and you are not seeking to change the already designated uses of currently allocated funding. You also intend to invite volunteers to attend meetings you are seeking to set up with City of Miami personnel to discuss potential changes to the City's Master Plan for the Trail. You, as the government liaison consultant, are the only paid staff member of the Friends of the Commodore Trail.

Issue

Whether Friends of the Commodore Trail board members, volunteers and/or you must register as lobbyists in order to participate in the above-described meetings with county and city staff.

Analysis

Miami-Dade Ethics Code Section 2-11.1(s)(1)(e) defines lobbyist as “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.” However, unpaid volunteers who appear before public officials on behalf of non-profits **only** for the purpose of requesting a grant are excluded from the definition of lobbyist. *See* Miami-Dade Code § 2-11.1(s)(2)(c); *see also* RQO 14-04; INQ 22-104; and INQ 18-72.

If a representative of a nonprofit lobbies County officers on matters other than grant funding, that representative must register as a lobbyist with the Miami-Dade Clerk of the Board; the representative is exempt from paying the registration fee. *See* Miami-Dade Code §2-11.1(s)(3) and (5); *see also* INQ 22-104; INQ 18-72; INQ 18-65. The representative must also attend and pay for the Lobbyist Ethics Training. *See* Miami-Dade Code § 2-11.1(s)(4); *see also* INQ 13-167. Nevertheless, if a nonprofit hires a person or firm to lobby on its behalf, on a compensated basis, that lobbyist would be required to register as a lobbyist, pay the registration fee, and complete and pay for the Lobbyist Ethics training. *See* INQ 18-65.

Lobbying activity is defined as “any attempt to influence or encourage the passage or defeat of, or modification to, governmental actions,” and includes oral, written and electronic communications. *See* Miami-Dade Code § 2-11.1(s)(1)(d).

In addition to the Miami-Dade County Ethics Code, the City of Miami also regulates lobbying of City officials. The City adopted Miami-Dade County’s definitions of lobbyist and lobbying activity and Miami-Dade County’s exemption from the registration fee for employees of non-profits who lobby without special compensation. *See* Miami Code §§ 2-653, 2-654.

Meetings with County or City personnel that are purely informational do not constitute lobbying and no registration is required prior to those meetings. *See* INQ 22-104 (informational meetings with County Commissioners to “establish relationships and inform Commissioners of the management of the property” is not lobbying); *see also* INQ 14-126 (group meeting with County Mayor that is merely informational is not lobbying).

The informational meetings you describe with Miami-Dade County personnel regarding the expenditure of already allocated funding for maintenance of Commodore Trail do not constitute lobbying activity. Similarly, meetings for the purpose of obtaining information about state and federal grants that Friends of the Commodore Trail might apply for do not constitute lobbying. *See* INQ 22-104.

However, the meetings with City of Miami personnel regarding potential changes to the City’s Master Plan for the Trail would require lobbyist registration if those meetings involve efforts to influence a government action (for example, if you and your volunteers and board members are advocating that something in the Master Plan be changed, deleted or updated). Your unpaid volunteers and board members are exempted from the registration fee. *See* Miami-Dade Code §2-11.1(s)(5)(c). You, as a paid staffer for the non-profit, are also exempt from the registration fee, as long as you are not paid “special compensation” for your lobbying. *See* RQO 14-04 (“Special

compensation would mean compensation that is different or in addition to regular wages and that is paid for a particular purpose). You and your volunteers and board members must also pay for and attend Lobbyist Ethics Training within 60 days of registration.

Opinion

You, the members of the volunteer board of directors of Friends of the Commodore Trail and volunteers for your organization do not need to register as lobbyists to participate in informational meetings with Miami-Dade County Staff. As long as you and your board members and volunteers do not attempt to influence County officers regarding some governmental action, registration as a lobbyist is not required. However, you, the members of your board of directors and your volunteers do need to register as lobbyists with the City of Miami prior to meeting with city officials to advocate for changes to the City's Master Plan for the Trail.

This opinion is based on the facts presented and is limited to an interpretation of the Miami-Dade County and City of Miami ethics codes. If these facts change, or if there are any further questions, please contact us.

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, Staff Attorney

cc. Commission on Ethics Staff 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 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.