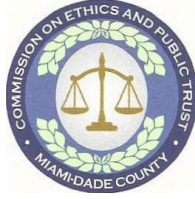


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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January 25, 2024

Sent via email only:
valerie.vicente@cityofdoral.com

Valerie Vicente
City Attorney
City of Doral
8401 NW 53 Terrace
Doral, FL 33166

Re: INQ 2024-16, Section 2-385 of the City of Doral Code of Ordinances, Improper influence by immediate family members

Dear Ms. Vicente,

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and seeking guidance regarding the application of ethics code provisions to administrative interactions between the City of Doral (hereinafter “City”) and a City employee’s spouse.

You have inquired as to whether ethics code provisions prohibit the spouse of an elected official, charter official, legislative aid, or department head of the City, who is employed as a general contractor, from submitting permit applications to the City’s building department as a general contractor for private clients within the City of Doral.

You have indicated that the interactions between the spouse and the City do not include the seeking of a contract with the City nor, as part of the spouse’s duties, would he/she accept payment as a means of expediting the administrative process for permits from the City.

Several sections of the Miami-Dade County Conflict of Interest and Ethics Code (hereinafter “County Ethics Code”) limit the conduct of municipal employees as it relates to business transactions between his or her immediate family members¹ with their municipal employer. Sections 2-11.1(c) and (d) of the Ethics Code restrict employees from transacting business with

¹ Immediate family member is defined as spouse, domestic partner, parents, stepparents, children and stepchildren. See Section 2-11.1(b)(9) of the County Ethics Code.

his or her municipality through any entity in which he/she or an immediate family member has a controlling financial interest. Section 2-11.1(g) prohibits municipal employees from using their public position, or any municipal resources, to secure a special benefit for themselves or others. Section 2-11.1(m)(1) prohibits municipal employees from appearing before any municipal board on behalf of third party and from receiving compensation, directly or *indirectly* or in any form, for any services rendered to the third party seeking a benefit from the municipality, in connection with the benefit² sought. Section (n) of the County Ethics Code prohibits employees from participating in an official action which may affect a business that he/she or an immediate family member has a financial interest. These provisions have been interpreted to require municipal employees to limit his or her municipal activities to processes available to the general public and not seek any special accommodation for themselves, their immediate family, and/or others.³

However, the Doral City Code has a provision within its ethics code which is more restrictive in limiting the actions of the immediate family members⁴ of City officials, legislative aids, and other specified City employees, in an effort to limit improper influence over City action. Section 2-385, entitled “Improper influence by immediate family members” states as follows:

- (a) The immediate family members of the mayor, city council, charter officials, legislative aids of the city and employees are hereby prohibited from directly or indirectly influencing, or attempting to influence, the decision and/or official act of any city staff which would bring pecuniary and/or other direct personal benefit.
- (b) An immediate family member of the mayor, city council, charter official, legislative aid or department head of the city shall not make an agreement for, charge, or collect fees for processing or expediting administrative approvals in the city.

Subsection (b) of this provision prohibits an immediate family member of an elected official, charter official, legislative aid, or department head, from participating in the process of administrative approvals in the City when he or she is collecting a fee, charge, or has an agreement to do so. In this instance, the spouse is not seeking to expedite the administrative approval of a permit; however, the usage of “processing” in the provision provides a stricter interpretation. Processing administrative approvals would include the submission of permits to the City Building Department or any aspect of the administrative process necessary to obtain a building permit.

² “Benefit” is defined broadly in the ethics ordinance to include a license, contract, certificate, ruling, decision, or opinion. See generally RQO 07-02; RQO 07-39; INQ 15-229; INQ 17-254; INQ 19-12.

³ Town Councilman was permitted to work in the municipality he served as a general contractor as long as he did not vote or participate in any official action directly or indirectly affecting his construction company, did not use municipal time, resources, or staff in furtherance of his outside employment, and restricted his interactions with municipal employees to ministerial transactions or processes available to the general public and not seek any special accommodation on behalf of himself or his clients. See INQ 21-143 (citing Sections 2-11.1(g) and (n), Ethics Code).

⁴ The Doral Code defines immediate family as spouse, domestic partner, parents, stepparents, children, and stepchildren of the person involved. See Section 2-370 of the City of Doral Code of Ordinances.

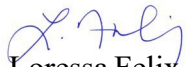
Further, the recitals within the language of the ordinance indicate that “when a company or vendor has an immediate family member within any department that can be influential, it may hinder the transparent process of and would be bring pecuniary and/or other direct personal benefit.” Additionally, in his memorandum dated September 14, 2022, submitted to the City Council, then City Attorney Luis Figueredo indicated the following:

Article V of Chapter 2 of the City of Doral’s, Code of Ordinances provides for the rules and procedures regarding our administration. As stewards of taxpayer’s resources and to protect the city’s interests, when a company or vendor has an immediate family member within any department there is the potential for perceived or actual conflicts, such as favoritism or personal conflicts that can negatively impact a fair and transparent process. The proposed ordinance is intended to avoid the appearance of favoritism, misuse of position, conflicts of interest, unfair advantage, and financial arrangements that directly benefit city employees or their family members.

Consequently, the County Ethics Code does not prohibit the spouse of an elected official, charter official, legislative aid, or department head from submitting permits as a general contractor to the City of Doral, albeit with limitations. However, the Doral City Code provides a more limiting provision for those it feels are in positions of influence. This provision prohibits a spouse from making an agreement or taking a fee or charge from a client to participate in the process of administrative approvals from the City, which would include the submission of permits on behalf of clients within the City.

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

Sincerely,



Loressa Felix, Esq.

General Counsel

Miami-Dade Commission on Ethics and Public Trust

cc: All COE Legal Staff

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.