



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*

Manuel Farach, *Vice Chair*

Robin N. Fiore

Ronald E. Harbison

Bruce E. Reinhart

Executive Director

Alan S. Johnson

November 8, 2010

Ruth Moguillansky-DeRose
Palm Beach County Office of Community Revitalization
2300 Jog Road
West Palm Beach, FL 33411

Re: RQO 10-020 (revised)
County employee on non-profit board of directors

Dear Ms. Moguillansky-DeRose,

The Commission on Ethics considered your request and rendered its revised opinion at a public meeting held on November 4, 2010.

YOU ASKED in your e-mail and attachment of September 3, 2010, whether you may represent your county department on the board of directors of a non-profit entity that receives grants and program funding from the county and, more specifically, with your department. Additional information regarding the specific relationship between the non-profit entity and the county programs administered by the Office of Community Revitalization, as well as documents relating to the structure of Rebuilding Together of the Palm Beaches, was received on September 15 and 20, 2010.

IN SUM, sec. 2-443(a)(7) specifically prohibits you, as a county employee, from using your official position or office to obtain a financial benefit for a charitable organization of which you are an officer or director.

THE FACTS as we understand them are as follows:

You are the principal planner for the Office of Community Revitalization (OCR), a county department established to serve as the main point of contact on issues related to neighborhood revitalization and community outreach and development. As part of its mission, OCR assists neighborhood groups and residents in effectively accessing and using county services and other community resources. In addition, OCR provides education, technical and financial assistance to help residents plan and implement sustainable neighborhood improvements.

Rebuilding Together of the Palm Beaches (RT) is a local affiliate of a national nonprofit volunteer association whose focus is to repair, rehabilitate and improve the houses of low income families, disabled and elderly citizens of the county. Funding for RT is provided by national and local corporate sponsors. The national RT offices, located in Washington, DC, recruit companies such as Home Depot, Lowes and Sears for sponsorships. Additional funding is obtained by way of local government grants and programs. Examples of grants include, the Resident Education to Action Program (REAP) and



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
Manuel Farach, *Vice Chair*
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director

Alan S. Johnson

Neighborhood Partnership Grants (NPG) which have been awarded to RT through the OCR and the Countywide Community Revitalization Team (CCRT), an advisory board established by the Board of County Commissioners to coordinate activities under the umbrella of OCR. The current grant implementation process includes a formal steering review committee to review applications and make recommendations to the OCR director regarding the forwarding of grants to the BCC for approval.

OCR is unaware of any organization other than RT that performs like services for the community. Habitat for Humanities comes closest; however, that organization builds homes as opposed to focusing on repair of existing properties. Notwithstanding, there are other applicants for both the county REAP and NPG grants. They mostly include formal or informal neighborhood groups representing specific communities. Habitat for Humanity also submitted a competing application for and obtained an NPG grant on behalf of Westgate Village.

You have been offered a position on the local RT Board of Directors. Representing OCR on the RT board is not part of your job description, however, you indicated that you had consulted with the OCR director and your participation was a directive of the department. This decision reflected the belief that your presence on the board would be beneficial to OCR. It should be noted that you currently participate in RT projects as a volunteer working during off duty hours and not as an officer or director.

Should you become a member of the RT board, your position would involve "requests for donations, services and/or assistance from other county departments and outside organizations for the benefit of the communities" OCR serves. In addition, your responsibilities with OCR include oversight of grants and/or contracts with RT within the umbrella of OCR responsibility.

THE LEGAL BASIS for avoidance of misuse of public office is found in sec. 2-443(a) of the code of ethics:

Sec. 2-443. Prohibited conduct.

- (a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities: (7) A nongovernmental civic group, union, social, charitable, or religious organization of which he or she ...is an officer or director.

Your position on the board of directors of RT would be in direct conflict with this prohibition if you use your official position to assist RT in obtaining any financial benefit, including grants and program benefits. The fact that you have oversight authority within the OCR creates a direct conflict where your authority extends to OCR grants and programs. Grants outside the authority of OCR still present the appearance of conflict. This is underscored by the fact that other nonprofit entities may be competing with RT for the same county dollars.



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
Manuel Farach, *Vice Chair*
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director

Alan S. Johnson

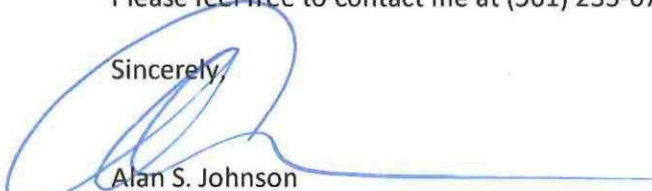
Another concern is solicitation of donations that are related to RT and not OCR. Sec. 2-444(a) prohibits a county employee from soliciting or accepting, directly or indirectly, any gift with a value in excess of \$100.00 from any person or business entity that is a lobbyist, principal or employer of a lobbyist. Some of the entities you had mentioned as donating materials or services to RT include vendors who employ lobbyists. Gifts solicited in your capacity as a county employee "on behalf of the county" in the "performance of your official duties for use solely by the county in conducting official business" are exempt. Gifts solicited for a non-profit organization are not.

IN SUMMARY, while there is no prohibition against you, in your official position as principal planner at OCR, from participating in meetings or otherwise being involved with RT and the activities and programs it provides to county residents, you cannot do so as an "officer or director" of that organization without effectively violating sec. 2-443(a) of the code of ethics as you are intricately involved in the ongoing financial relationship RT maintains with the county. Additionally, in any capacity, you may not solicit donations from county vendors who employ lobbyists, unless it is done on behalf of the county, in the performance of your official duties, and for use solely by the county in conducting official business.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you and staff at ACC have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 if I can be of any further assistance in this matter.

Sincerely,



Alan S. Johnson
Executive Director

ASJ/gal