



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
Manuel Farach, *Vice Chair*
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Executive Director

Alan S. Johnson

January 10, 2011

Maite Reyes-Coles, MA
Coordinator of Independent Living Services
Coalition for Independent Living Options, Inc.
6800 Forest Hill Blvd.
West Palm Beach, FL 33413

RE: RQO 10-036
Misuse of office/voting conflicts

Dear Ms. Reyes-Coles,

The Palm Beach County Commission on Ethics has considered your request for an advisory opinion, and rendered its opinion at a public meeting on January 6, 2011.

YOU ASKED in your emails dated November 19, 2010, whether a vendor, who appears before your advisory commission, may post an advertisement in your outside employer's newsletter and website, without violating the code of ethics. You provided additional information in an email dated November 30, 2010.

IN SUM, based on the facts you have submitted, so long as you or your outside employer do not benefit financially, it is not a violation of the code of ethics for the Coalition for Independent Living Services to list opportunities for accessible housing on its newsletter and website, even though at least one of the private companies listed may receive future funding from the Commission on Affordable Housing, of which you are a member appointed by the Board of County Commissioners.

THE FACTS as we understand them are as follows:

You are the Coordinator of Independent Services for a private, non-profit corporation, the Coalition for Independent Living Services, Inc. (CILO). You are not an officer or director for CILO. In your capacity as an employee you have been asked by the developers of a housing complex, Hammond Park, to allow them to publicize opportunities for accessible housing in the CILO newsletter and website. You also serve on the Commission for Affordable Housing, and in this role you vote on matters that include the disbursement of funds from certain grants for developers to provide low-interest loans for use in building affordable housing. The developers of Hammond Park have received such loans in the past, and you believe they may be appearing before your commission to ask for additional funding in the future.

The listing of service providers in CILO's newsletter and on its website would be published solely for the purpose of offering your consumers information as to services they may find useful. Neither you personally, nor CILO receive any financial benefit from publishing this information. The opportunity to

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list available services is offered cost free to any organization or person that CILO feels offers services that are appropriate for their consumers.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

The Palm Beach County Code of Ethics Section 2-444, *Definitions*, states in relevant part:

Official or employee means any official or employee of the county, whether paid or unpaid...and *members appointed by the board of county commissioners to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.* (emphasis added)

Based on the fact that you were appointed to the Commission on Affordable Housing by the Board of County Commissioners, you fall under the jurisdiction of the code of ethics for any actions taken as a member of the Commission on Affordable Housing.

Under the prohibitions listed in Section 2-443(a), *Misuse of public office*, you may not use your position on the Commission for Affordable Housing to benefit yourself, an outside employer or business (i.e., CILO), customer or client, or non-profit organization of which you are an officer or director. You have advised that neither you nor CILO benefit financially from this listing service. Further, this service would be offered not only to Hammond Park, but to any service provider deemed appropriate by CILO for its consumers. So, there does not appear to be any financial gain for Hammond Park that is not available to others similarly situated.

Under the same analysis, there also does not appear to be a voting conflict under Section 2-443(b), *Voting Conflicts*, which would necessitate you disclosing and abstaining from any vote of the Commission on Affordable Housing involving Hammond Park, so long as you do not use such a vote to financially benefit yourself, an outside employer or business, customer or client, or non-profit organization of which you are an officer or director.

IN SUMMARY, based on the information you have provided, it is not a violation of the code of ethics for the Coalition for Independent Living Services to list opportunities for accessible housing on its newsletter and website at no charge, even though at least one of the private companies may receive funding for building such housing from the Commission on Affordable Housing, of which you are a member appointed by the Board of County Commissioners.

Although not part of your request for an advisory opinion, your emails have disclosed that your outside employer, CILO, has current contracts or other transactions for goods and services with Palm Beach County. You further indicated that you are aware that such a relationship constitutes a prohibited contractual relationship under Section 2-443(d), *Exceptions and waivers*, and that you are required to obtain a waiver from the Board of County Commissioners to continue to serve on the Commission for



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Affordable Housing. In that regard, you have presented a copy of your written request for such a waiver, dated October 1, 2010. This request was sent to the Department of Housing and Community Development, asking that they make the formal request for a waiver to the Board of County Commissioners (BCC). As of the writing of this opinion that request has not yet been acted on by BCC. This Commission takes no position on your request for a waiver.

This opinion construes the Palm Beach County Code of Ethics ordinance, but 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/meb/gal