



CITY OF HALLANDALE BEACH, FLORIDA
MEMORANDUM

DATE: January 12, 2016
TO: Commissioner Keith London
FROM: V. Lynn Whitfield, City Attorney
SUBJECT: Advisory Ethics Opinion- Voting Conflict

You have requested this office provide you with an advisory ethics opinion regarding whether or not you have a voting conflict based on the facts which you have related. You have advised that you requested an opinion from another entity but was told that you must first obtain an opinion from your City Attorney and that you intend to forward this office's opinion to the other entity when received. For clarification be advised that this legal opinion is not being offered pursuant to the Broward County Elected Official Code of Ethics in that your inquiry is based on Florida Statute 112.314 (3)(a) voting conflict and not under any provision of the Broward County Elected Official Code of Ethics. Section 1-19(c) (8) specifically states that request for advisory opinion which affords the elected official "safe harbor" is as it applies to the Broward County Code of Ethics and is void of any mention of the Florida Statutes. The Florida Statutes do not provide for a "Safe Harbor" advisory opinion but instead provides that an elected official may seek an advisory opinion directly from the Commission of Ethics.

Queries:

Whether or not you are presented with a voting conflict on the Diplomat Parkway project due to the fact that during 2012-2014, you did outreach work for two clients, Dania Jai Alai and Hillcrest Country

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Club which both have ownership which overlaps with the Diplomat Golf Course Venture, LLC?

Whether or not based on your former association with the clients, you are prohibited from participating in the discussions before the City Commission on the Diplomat Parkway project?

Answer: Your queried are both answered in the negative. Whether or not a voting conflict exists is controlled by Section 112.314(3) (a) of the Florida Statutes. The Florida Commission on Ethics has opined on numerous occasions that this statute is written in the present tense requiring current (at the time of the vote) relationship between the elected official and the entity. The facts you submitted indicate that your relationship with both clients ended prior to your taking office in 2014, at least over twelve months prior to the time a vote will be taken on the Diplomat Parkway project.

The facts set forth in CEO 09-9 are very similar to your present situation. There a city commissioner had previously represented a development company. He immediately resigned from the company when taking office. The company had a measure which was going to come before the commission which was going to affect the company or some of its affiliates. The Commission on Ethics opined that because the Commissioner had no interests in the company and that neither he nor his family would benefit from the measure; he was not a principal or business associate; nor was there no current economic relationship, there was no voting conflict.

That opinion was in keeping with previous opinions rendered in cases such as with Vice Mayor Julian voting on measures affecting Gulfstream which seasonally employs him. See CEO 06-5.

Furthermore, Section 286.012 prohibits an elected official from abstaining from voting unless there is a conflict of interest or the possibility of a conflict

As to your second query, Section 11 (G) of the City's Protocol Manual requires a Commissioner who has a conflict pursuant to Florida Statute 112.311, 112.313, 112.3143 or 286.012 to leave the Commission Chambers and not participate in the discussions after making the necessary disclosures. In that you do not have a conflict of interest pursuant to Florida Statutes, you are not required to leave the dais or chamber and you may participate in the discussions.

That being said, for the sake of total transparency, you may wish to disclose your prior relationship with the clients but that you have no current relationship, financial interest and will not directly or indirectly benefit from the item before the Commission and that despite your prior relationship you can remain impartial on the matter.

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I hope this satisfactorily answers your queries.

Thank you for the opportunity to opine on this matter.

V. Lynn Whitfield, City Attorney