

MEMORANDUM

TO: Commissioner Tim Ryan

FROM: Andrew J. Meyers, Chief Deputy County Attorney

DATE: August 10, 2017

RE: Discussing with City of Dania Beach Commissioners How a Potential Hotel Development Might Impact Nearby Property in which You Own, Through a Corporate Entity, a Substantial Interest
CAO File: 17-10E

You own a substantial interest in Modelo Properties, Inc., a Florida corporation ("Modelo"). A review of corporate records reveals that you and two of your brothers are listed as Modelo's sole officers and directors. Since 1990, Modelo has been the owner of real property located at 24 N.E. 1st Avenue (the "property") in Dania Beach (the "City"). The property is in close proximity to a planned hotel development in the City. To protect your private financial interests, you wish to contact City elected officials to discuss with them how the planned development might impact your property. Because of the prohibition in the County ethics code on County Commissioners lobbying municipal officials, you have asked whether making such contacts is permissible. It is our opinion that, as explained below, such contacts do not constitute impermissible lobbying and that you may, therefore, contact City elected officials to discuss how the proposed development might impact your nearby property.

As a preliminary matter, nothing in the state ethics code specifically and expressly addresses whether a County Commissioner may "lobby" municipal elected officials. Section 112.313(6), Florida Statutes, does prohibit misuse of a public position, including impermissibly using a public position to achieve a personal gain. Therefore, in any dealings with City officials regarding this matter, please make clear that you are addressing only your personal financial interests (as a private citizen) and that you are not there to discuss any dealings between the City and the County. To avoid even the appearance of linking any City action regarding the proposed development to any future County action, it is recommended that you refrain from discussing any County business during meetings with City officials during which you discuss your private financial interests.

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While the County ethics code prohibits lobbying of municipal elected officials by County Commissioners (Section 1-19(c)(2)a, Broward County Code), the proposed contacts do not constitute lobbying. "Lobbying" is defined as certain communications from a "lobbyist" to, among others, municipal elected officials. Section 1-19(b)(7), Broward County Code. A person who communicates on his or her own behalf, to advance his or her own personal interests, is excluded from the definition of "lobbyist." Section 1-19(b)(8), Broward County Code. Because you would not be considered a "lobbyist" when you engage in the anticipated communications, the communications do not constitute "lobbying" and, by extension, do not constitute impermissible lobbying of a municipal elected official.

Accordingly, and consistent with the guidance provided in this memorandum, you may contact City elected officials to discuss how the proposed development might impact your property and private financial interests.

Please let us know if we may be of further assistance on this matter.

/s/ Andrew J. Meyers
Andrew J. Meyers
Chief Deputy County Attorney