



954-357-7600 · FAX 954-357-7641

**MEMORANDUM**

**TO:** Senator Steve Geller

**FROM:** Andrew J. Meyers, Chief Deputy County Attorney

**DATE:** August 29, 2017

**RE: Attendance with Client Representative at Municipal Public Hearings  
CAO File: 17-11E**

This memorandum confirms verbal guidance we provided to you several weeks ago.

For many years, you have provided legal representation to Jean Francois Roy and various entities with which he has been affiliated ("client"). Your client has a matter pending before the City of Ft. Lauderdale, including its Planning and Zoning Board ("PZB"). He has retained an attorney (not a member of your firm) to represent him at the PZB public hearing. He asked you to accompany him to that public hearing and to sit with him in the audience, which would enable you to provide private legal guidance and to consult with him and his other attorney during the hearing. You would not communicate with the PZB, or its members, at this public hearing. In an abundance of caution, you asked us to confirm that your attendance in that capacity and for that reason does not run afoul of any applicable ethics provisions. If you believe that any fact stated herein is inaccurate or incomplete, please let us know as it might impact our legal conclusion. For the reasons stated below, it is our opinion that you may attend the PZB public hearing (and any subsequent City Commission meetings regarding this same matter) and engage in the intended communication with your client and his other attorney.

Nothing in the state ethics code addresses the facts presented here.<sup>1</sup> While the County ethics code prohibits *lobbying* of certain municipal officials by County Commissioners (Section 1-19(c)(2)a, Broward County Code), your presence as an audience member

---

<sup>1</sup> Section 112.313(6), Florida Statutes, which is titled "Misuse of Public Position," states that no public officer shall "corruptly use or attempt to use his or her official position . . . to secure a special privilege, benefit, or exemption for himself, herself, or others." We could imagine a set of facts where a public officer accompanies someone to a public meeting for the purpose of securing a benefit to that person (due to his or her association with the public officer). Those are not the facts here where you are attending, and sitting in the audience, to provide legal counsel to a longstanding client.

Senator Steve Geller  
Broward County Commissioner  
August 29, 2017  
Page 2

does not constitute lobbying. "Lobbying" involves a "communication, by any means, from a lobbyist to a covered individual." Section 1-19(b)(7), Broward County Code. In our opinion, your mere presence does not constitute a "communication." Even if it did, communications "[m]ade on the record at a duly-noticed public meeting or hearing" do not constitute lobbying. *Id.* Thus, under the ethics code, and absent additional facts, you would be permitted to actively communicate on the record with the PZB (and subsequently at a City Commission meeting addressing the same matter). Certainly, any arguable "passive communication" with the PZB resulting from your sitting with your client in the audience and consulting with him and his other attorney must be permissible if direct, active communication is permissible.

Accordingly, you may sit in the audience with, and provide private legal counsel to, your client during the PZB meeting and at any upcoming City of Fort Lauderdale Commission meeting addressing the same matter.

Please let us know if we may be of further assistance regarding this issue.

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