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**GOREN CHEROF
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ATTORNEYS AT LAW

BROWARD COUNTY CODE OF ETHICS ADVISORY OPINION

To: Vice Mayor Jay Schwartz

From: Samuel S. Goren, City Attorney *SSG*
Jacob G. Horowitz, Assistant City Attorney *JGH*

Date: July 13, 2022

Re: City of Pembroke (“City”) / Code of Ethics – Advisory Opinion

I. ISSUE AND FACTS PRESENTED

Your spouse, Stacey, has been appointed by the Board of County Commissioners for Broward County to serve as a regular member of the North Perry Airport Community Advisory Committee (the “Committee”). You are the co-owner and president of Blue Sky Aviation USA, Inc. (“Blue Sky”), a Florida corporation operating out of North Perry Airport (“Airport”) and a tenant of Broward County at that location. Your wife is not a co-owner of Blue Sky, and she has no independent financial interest in the corporation.

As part of her service on the Committee, Broward County has asked your wife to complete and file a Form 4A, promulgated by the Florida Commission on Ethics, pertaining to the disclosure of business transactions, relationships or other interests related to her public position.

You have inquired as to whether the Broward County Code of Ethics for Elected Officials (“Code of Ethics”) applies, in any context, given your wife’s appointment to serve as a member of the Committee.

II. ANSWER

For the reasons set forth herein, the Code of Ethics **does not** apply to your wife’s service on the Committee. While certain provisions of the Code do extend to “immediate family members,” absent more specific facts pertaining to a particular set of circumstances, there is **no violation** of

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the Code of Ethics resulting merely from your wife's appointment to and service on the Committee. Specific questions pertaining to her service on the Committee may need to be evaluated on a case-by-case basis. *Section 1-19(C)(1)(b), Broward County Code of Ordinances.*

Note that Broward County may have a separate code of ethics which applies specifically to County advisory board matters. Mrs. Schwartz would need to seek counsel from the Broward County Attorney's Office to the extent that the County's ethics code for advisory board members has some application to her service. Further, Section 112.313, F.S., the standards of conduct for public officers and employees, also applies to advisory board members. Mrs. Schwartz would be subject to the restrictions and limitations set forth in this section. The Florida Commission on Ethics has jurisdiction to interpret and opine on Ch. 112, F.S.

III. ANALYSIS

The Broward County Code of Ethics for Elected Officials applies to the Board of County Commissioners and to the elected municipal officials in Broward County¹. As the Vice Mayor of Pembroke Pines, you are subject to the Code of Ethics. The Code of Ethics, however, does not extend to members of the County's advisory boards or the City's advisory boards².

There are certain provisions of the Code of Ethics, however, which apply to an elected official's "immediate family member." This term is defined to mean "a parent, **spouse**, child, sibling or registered domestic partner."

To the extent that the Code of Ethics applies to your spouse, as your "immediate family member," the Code permits you to accept a gift in the form of an expression of condolences or sympathy from a lobbyist, vendor or contractor, in connection with the "death or significant injury or illness of...an immediate family member of the elected official." Further, the Code of Ethics also prohibits your "immediate family members," including your wife, from lobbying any "covered individuals," as that term is defined; or from doing business as a vendor with the City. Neither of these provisions apply to your wife's public service on the Committee.

Absent more specific facts which relate to a particular provision of the Code of Ethics, your spouse's appointment to and service on a County advisory board would not "trigger" the Code of Ethics, as it applies to you as the vice mayor. Note, however, that Mrs. Schwartz, by virtue of her appointment to and service on the Committee, is also a "public officer," as defined in Section 112.313, F.S. While there are certain exceptions in that section for advisory board members, she will need to be mindful of her obligations under Ch. 112, F.S., which includes voting conflict provisions and other standards of conduct. To the extent that she has any questions pertaining to her service on the Committee, Mrs. Schwartz would need to consult the County Attorney's Office or the Florida Commission on Ethics, as applicable.

¹ Sec. 11.08 of the Broward County Charter extends the Code of Ethics to the County's Constitutional Officers, as well; however, it is unclear whether this provision is currently enforced by Broward County or the Office of the Inspector General.

² Broward County may have a separate code of ethics which applies to its advisory board members.

IV. CONCLUSION

For the reasons set forth herein, it is the opinion of the City Attorney's Office that your spouse's mere service on the Committee does not automatically create a violation of the Code of Ethics for you, as the vice mayor. Specific issues related to her service may need to be considered on a case-by-case basis. There may also be other considerations for your spouse, as a public officer, under the County's ethics code for advisory board members or Chapter 112, F.S.

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Broward County Code of Ordinances and may be relied upon by the individual who made the request. This analysis is limited solely to the facts presented. Within fifteen (15) days of receiving this opinion, a copy must be sent in a searchable "pdf" format to ethicsadvisoryopinions@broward.org for inclusion in the searchable database of advisory opinions maintained by the County.

Please contact our office if there is any additional information that we can provide.