



Palm Beach County Commission on Ethics

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June 24, 2011

Richard Gathright, Deputy Building Official
Palm Beach County Building Department
2300 North Jog Road
West Palm Beach, FL 33411

Re: RQO 11-036
Conflict of Interest/Misuse of Office

Dear Mr. Gathright,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion. The opinion rendered is as follows.

YOU ASKED in your letter dated June 15, 2011, whether your employment as a Deputy Building Official for the Palm Beach County Building Department, and your volunteer work with Habitat for Humanity of Palm Beach County or their Family Support Committee causes a prohibited conflict of interest under the Code of Ethics. You provided additional information to COE staff by email on June 17, 2011, including a job description of your county duties.

IN SUM, there is no prohibited conflict of interest created under the Code of Ethics if you, as a Deputy Building Official for Palm Beach County, choose to volunteer during non-working hours with Habitat for Humanity of Palm Beach County (HFH) or their Family Support Committee, so long as you do not corruptly misuse your official position to benefit yourself, or HFH.

THE FACTS as we understand them are as follows:

You are a Deputy Building Official for Palm Beach County. Your duties as Deputy Building Official include supervision of personnel in building plan review, inspection activities, and enforcement of building codes, according to the job description you provided.

You have volunteered your time with Habitat for Humanity of Palm Beach County (HFH) for the past several years helping to build homes. HFH partners with families in need to build affordable homes together. Each HFH partner family is required to invest a minimum of 500 sweat equity hours of their own labor into the construction of homes before being eligible to purchase their home utilizing a 30-year, no-profit, no-interest loan. Because of your extended volunteer service, HFH has asked you to join their Family Support Committee, which helps

2633 Vista Parkway, West Palm Beach, FL 33411 561.233.0724 FAX: 561.233.0735

Hotline: 877.766.5920 E-mail: ethics@palmbeachcountyethics.com

Website: palmbeachcountyethics.com

screen prospective homeowners, and provides mentorship to their clients, as needed. Neither you, nor any member of your household is an officer or member of the board of directors of HFH. HFH is a 501(c)(3) non-profit corporation that is not a county vendor. However, like all builders, they must comply with applicable building codes, including those applicable to residential builders working in unincorporated Palm Beach County.

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

Sec. 2-443. Prohibited conduct.

(b) *Corrupt misuse of official position.* An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. (Emphasis added)

Because you are not an officer or director of Habitat for Humanity of Palm Beach, only Sub-Section 2-443(b) of the Prohibited Conduct section applies to you under the facts you have presented. This sub-section prohibits you from corruptly using your official position with Palm Beach County to secure or attempt to secure any special privilege, benefit, or exemption for Habitat for Humanity of Palm Beach County, or any other person or entity.

IN SUMMARY, based on the facts you have submitted, there is no prohibited conflict of interest created under the code, based on your position as a PBC Deputy Building Official and your volunteer work with Habitat for Humanity of Palm Beach County. However, you are prohibited under the code from using your official position to corruptly secure any special benefit for HFH, or for any other person or entity.

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 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson
Executive Director
Commission on Ethics

ASJ/meb