

Honesty - Integrity - Character

Agenda

May 1, 2025 – 1:30 p.m.
Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Palm Beach County

Commission on Ethics

300 North Dixie Highway, Ste 450

West Palm Beach, FL 33401

561.355.1915

Hotline: 877.766.5920

E-mail: ethics@pbcgov.org

Commissioners

Michael S. Kridel

Peter L. Cruise

Michael H. Kugler

Rodney G. Romano

Kristin A. Vara-Garcia

Executive Director

Christie Kelley

General Counsel

Rhonda Giger

Intake & Compliance Manager

Gina A. Levesque

Education & Communications Manager

S. Lizabeth Martin

Investigator

Mark A. Higgs

Investigator

Abigail Irizarry

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Introductory Remarks
- V. Approval of Minutes from April 3, 2025
- VI. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 25-005
 - b. RQO 25-006
- VII. Items Pulled from Consent Agenda
 - a.
- VIII. Executive Director Comments
- IX. Commission Comments
- X. Public Comments
- XI. Adjournment

If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, (s)he will need a record of the proceedings, and that, for such purpose, (s)he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**OFFICIAL MEETING MINUTES
OF THE
PALM BEACH COUNTY COMMISSION ON ETHICS (COE)
PALM BEACH COUNTY, FLORIDA**

APRIL 3, 2025

**THURSDAY
1:30 P.M.**

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

MEMBERS:

Michael S. Kridel, Chair
Peter L. Cruise, Vice Chair
Michael H. Kugler
Rodney G. Romano
Kristin A. Vara-Garcia

COMMISSION ON ETHICS STAFF PRESENT:

Rhonda Giger, General Counsel
Mark Higgs, COE Investigator II
Abigail Irizarry, COE Investigator II
Christie E. Kelley, COE Director III
Gina A. Levesque, COE Intake and Compliance Manager
S. Lizabeth Martin, COE Communication and Education Manager

CLERK OF THE CIRCUIT COURT & COMPTROLLER'S OFFICE STAFF PRESENT:

Danielle Freeman, Deputy Clerk

I. Call to Order

The chair called the meeting to order at 1:30 p.m.

(CLERK'S NOTE: The roll call was taken up before the Pledge of Allegiance.)

III. Roll Call

All members were present.

II. Pledge of Allegiance

The commissioners recited the Pledge of Allegiance.

IV. Introductory Remarks

Commissioner Vara-Garcia commended staff on the annual reports.

V. Approval of Minutes from March 6, 2026

MOTION to approve the minutes. Motion by Commissioner Kugler, seconded by Vice Chair Cruise, and carried 5-0.

VI. Processed Advisory Opinions (Consent Agenda)

a. RQO 25-004

MOTION to approve the consent agenda. Motion by Commissioner Vara-Garcia, seconded by Vice Chair Cruise, and carried 5-0.

VII. Items Pulled from Consent Agenda

VIII. Executive Director Comments

Ms. Kelly announced that the COE had received two proclamations: one from the BCC, presented by Commissioner Woodward, in honor of Ethics Awareness Month, and another from the City of Palm Beach Gardens.

Ms. Kelly stated that staff participated in various outreach events in March as well as a joint ethics awareness event with the Office of the Inspector General.

Ms. Kelly reported that staff had attended various municipal meetings.

Ms. Kelly said that the COE staff was collaborating with the County Administration to establish the COE Review Committee with the aim of revising the ordinance. The Review Committee will include two BCC appointees, Christie Kelly, the County Attorney's Office, and two representatives from the League of Cities. This initiative is expected to progress around early May or June, in connection with Senate Bill 7014.

Responding to a question from Vice Chair Cruise, Ms. Kelly stated that the purpose of the review committee was to make sure that they were in compliance.

IX. Commission Comments

No comments were made.

X. Public Comments

There were no public comments.

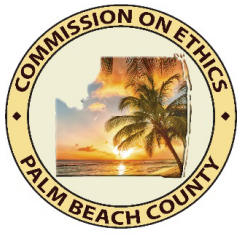
XI. Adjournment

MOTION to adjourn. Motion by Commissioner Kugler, seconded by Commissioner Romano, and carried 5-0.

At 1:35 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair



Honesty - Integrity - Character

Palm Beach County Commission on Ethics

Commissioners
Michael S. Kridel, Chair
Peter L. Cruise, Vice Chair
Michael H. Kugler
Rodney G. Romano
Kristin A. Vara-Garcia

Executive Director
Christie Kelley

April 11, 2025

Commissioner Joel Flores
Board of County Commissioners
301 N. Olive Avenue
West Palm Beach, FL. 33401

Re: RQO 25-005
Gift Law/Solicitation of Donations

Dear Commissioner Flores:

Your request for an advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

QUESTION:

Does the Palm Beach County Code of Ethics (Code) prohibit you as a Palm Beach County (County) Commissioner from accepting a ticket to an event where you are being honored as a County Commissioner, when the event is hosted by a County vendor?

BRIEF ANSWER:

The Code prohibits public officials from accepting a gift of over \$100 from a vendor of the County, unless an exception applies. Here, the acceptance of the ticket is not prohibited and would not be considered a gift because the event is related to County business, the event is sponsored by a non-profit organization, and the ticket was given to you by a representative of the non-profit who is neither a lobbyist nor the principal of a lobbyist.

FACTS:

You are a County Commissioner. The Hispanic Chamber of Commerce of Palm Beach County (HCC) intends to honor you at their annual gala. HCC is registered as a vendor with Palm Beach County. Additionally, HCC is a non-profit organization, and the gala will benefit an established scholarship fund. While the gala also has several levels of sponsorship opportunities, a single ticket carries a value of \$250.

You were approached by Maria Antuna, the Chief Executive Officer of HCC about their intent to honor you at the gala. Ms. Antuna, in her capacity as CEO, is the individual who will be giving you the complimentary entrance ticket to the gala. You do not work for HCC, nor are you an officer or board member. The gala's informational flyer says, "Honoring Palm Beach County Commissioner Joel Flores" along with your photograph. The flyer also says, "Benefitting the

Luciano 'Lou' Martinez Scholarship Fund." This flyer is easily accessed through HCC's website and is also displayed by the platform where on-line tickets are purchased.

ANSWER:

Under the Code, a gift is the transfer of anything of economic value without adequate and lawful consideration.¹ In general, a ticket to an event is considered a gift. However, the Code provides an exception for a ticket to a public event that is related to official county business when that ticket is given by a non-profit sponsor organization which does not employ a lobbyist and the ticket is given by a representative of the non-profit sponsor organization who is not otherwise a lobbyist or a principal or employer of a lobbyist who lobbies the County.² Notwithstanding this exception, if the value of the ticket exceeds \$100, the official or employee will need to report the gift in the manner provided by Sec. 112.3148, Florida Statutes.³ As a County Commissioner, you are identified by state law as a state reporting individual for purposes of gift reporting and are required to comply with the gift reporting requirements as contained within state law.⁴

Based on the facts submitted, as a County Commissioner, you are not prohibited from accepting complimentary admission to HCC's gala fundraiser event as long as the non-profit organization (HCC) does not employ a lobbyist who lobbies the County and the ticket is given to you by a representative (Ms. Antuna) of the non-profit organization who is not a lobbyist or principal or employer of a lobbyist who lobbies the County.⁵ Although your acceptance of the ticket may not be prohibited, because the published cost of attendance exceeds \$100, the gift must be reported on a gift form and a copy of the form must be submitted to the Palm Beach County Commission on Ethics.

Additionally, Sec. 2-443(a) of the Code prohibits public officials or employees from using their official position or office in any way to give a special financial benefit, not shared with similarly situated members of the general public, to specified persons or entities. Among those specified persons or entities is a non-profit organization of which the official or employee is an officer or director.⁶ Thus, if you served as an officer or director of HCC, then you would be prohibited from using your official position as a County Commissioner, i.e., lending your name and title to the fundraiser, to give the organization a special financial benefit. However, because you are not an officer or director of HCC, this section of the Code does not apply to you. As such, you are not prohibited from lending your name and official title as a County Commissioner to a fundraising effort on behalf of HCC.

¹ Sec. 2-442

² Sec. 2-444(g)(9)

³ Sec. 2-444(f)

⁴ RQO 11-089

⁵ While the COE did not find any evidence that either HCC or Ms. Antuna are currently engaged in lobbyist activities, the burden is on the gift recipient to confirm these facts.

⁶ Sec. 2-443(a)(7)

Sec. 2-443(b) of the Code also prohibits officials or employees from using their official position or office to corruptly secure to special benefit for others. The Code defines corruptly as acting with a wrongful intent that is inconsistent with the proper performance of the one's public duties.⁷ Therefore, as a County Commissioner, you must ensure that you refrain from improperly using your official position in any way to corruptly secure a special benefit of any kind for HCC.

In a related issue regarding charitable solicitations, the Code generally prohibits you, or any other person or entity on your behalf, from soliciting or accepting any gift with a value greater than \$100 in the aggregate per calendar year, from a vendor, lobbyist, or any principal or employer of a lobbyist who lobbies the County. Here, because your name appears on the event solicitation flyer, then, under the Code, it is considered as you soliciting or accepting donations on behalf of HCC. However, the Code has an exception to this prohibition for charitable solicitations. In Sec. 2-444(h), the Code allows officials and employees to solicit or accept donations over \$100, directly or indirectly, on behalf of a non-profit organization from anyone, including a vendor, lobbyist, or any principal or employer of a lobbyist, as long as the person or entity solicited does not have a pending application or award of any nature before the public entity the official or employee serves and a charitable solicitation log is maintained.

Therefore, you are not prohibited from soliciting or accepting donations on behalf of HCC from anyone, including County vendors or lobbyists or principals or employers of lobbyist who lobby the County.⁸ However, you must ensure that no person or entity with a pending application or bid before the County is solicited and a log of any solicitations or donations from any vendor, lobbyist, or principal or employer of a lobbyist of the County must be maintained. The charitable solicitation log must be submitted to the COE within 30 days of the fundraising event.

The rationale behind limiting the manner in which charitable solicitation from vendors, lobbyists, or principals or employers of lobbyists of a public entity may occur is grounded in the desire to increase transparency and to help avoid the appearance that these donations are made to obtain improper access or to gain the good will of public employees or officials. With that in mind, you are reminded that you must take great care to ensure that any donations accepted on behalf of HCC do not result in any quid pro quo or other special consideration by you to the person or entity making the donation.⁹

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-443(a), Sec. 2-443(b), and Sec. 2-444 of the Code:

Sec. 2-443. Prohibited Conduct.

(a) **Misuse of public office or employment.** An official or employee shall not use his or her official

⁷ Sec. 2-443(b)

⁸ Lending a name and official title is the equivalent of indirectly "soliciting or accepting donations".

⁹ Sec. 2-444(e)

position or office, or take or fail to take any action, or influence others to take or fail to take any action, or attempt to do any of these things, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

(1) Himself or herself;

(7) A civic group, union, social, charitable, or religious organization, or other organization of which he or she (or his or her spouse or domestic partner) is an officer or director.

(b) **Corrupt misuse of official position.** An official or employee shall not use or attempt to 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. For the purposes of this subsection, "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.

Sec. 2-444. Gift law.

(a)(1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist, or any principal or employer of a lobbyist who lobbies, sells, or leases to the county or municipality as applicable.

(g) Exceptions. For purposes of this section, the following shall not be considered a gift:

(9) A ticket, pass or admission in connection with public events, appearances or ceremonies related to official county or municipal business, if furnished by a nonprofit sponsor organization of such public event, or if furnished pursuant to a contract between the event's non-profit sponsor and the county or municipality as applicable, provided the sponsor organization does not employ a lobbyist, and further provided the ticket, pass or admission is given by a representative of the sponsor organization who is not otherwise a lobbyist or a principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass, or admission must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2);

(h) Solicitation of contributions on behalf of a non-profit charitable organization.

(1) Notwithstanding the prohibition on gifts as outlined in subsections (a) and (b), the solicitation of funds by a county or municipal official or employee for a non-profit charitable organization, as defined under the Internal Revenue Code, is permissible so long as there is no quid pro quo or other special consideration, including any direct or

indirect special financial benefit to the official or employee or to the person or entity being solicited. The solicitation by an official or employee as contemplated herein, is expressly prohibited if made to any person or entity with a pending application for approval or award of any nature before the county or municipality as applicable.

- (2) To promote the full and complete transparency of any such solicitation, officials and employees shall disclose, on a form provided by the commission on ethics, the name of the charitable organization, the event for which the funds were solicited, the name of any person or entity that was contacted regarding a solicitation or pledge by the official or employee, and the amount of the funds solicited or pledged if known. The form shall be completed legibly and shall be filed with the commission on ethics. The form shall be filed within thirty (30) days from the occurrence of the event for which the solicitation was made, or if no event, within thirty (30) days from the occurrence of the solicitation.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. This opinion is not applicable to any conflict under state law, or with any relevant provision within the rules of The Florida Bar. Inquiries regarding possible conflicts under state law or bar rules should be directed to the State of Florida Commission on Ethics or The Florida Bar.

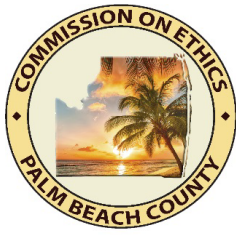
Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Christie Kelley,
Executive Director

RG/gal



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Palm Beach County Commission on Ethics

Commissioners
Michael S. Kridel, Chair
Peter L. Cruise, Vice Chair
Michael H. Kugler
Rodney G. Romano
Kristin A. Vara-Garcia

Executive Director
Christie Kelley

April 25, 2025

Christy Goddeau, Esquire,
City Attorney
City of Lake Worth Beach
701 Northpoint Parkway, Suite 209
West Palm Beach, FL 33407

Re: RQO 25-006
Voting conflict

Dear Ms. Goddeau,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

QUESTION:

Does the Palm Beach County Code of Ethics (Code) prohibit Commissioner Christopher McVoy from participating in discussions or voting on matters before the Lake Worth Beach City Commission when they involve the development project related to the Weiner Museum of Decorative Arts (WMODA) and its associated parking garage?

BRIEF ANSWER:

Commissioner McVoy is not prohibited from participating in discussions or voting on these matters because the size of the class affected by this project is large enough to remove any potential conflict of interest as defined by the Code.

FACTS:

You are the City Attorney for the City of Lake Worth Beach (City) and are seeking an advisory opinion on behalf of Commissioner McVoy. The City is in the process of approving a public private partnership with Sunshine Lake Worth Development LLC (SLWD) to develop a parking garage in the downtown area, specifically, at the northwest intersection of South "K" Street and 1st Avenue South. The parking garage will serve the public but will also provide available parking for WMODA. WMODA is part of a mixed-use development currently being pursued in the nearby downtown area by SLWD. The WMODA mixed-use development will include the museum and a residential component.

Near the proposed WMODA residential component of the mixed-use development is 30 South "M" Street, which is owned by Conaboy Properties LLC (CP). CP is owned by Thomas Conboy. Mr. Conboy is also the owner and manager of South Florida Engineering and Consulting LLC (SFEC). SFEC's principal place of business is 30 South "M" Street, Lake Worth Beach. SFEC's website describes itself as a "registered Federal Contractor and

Certified Small Business in the United States Government SAM database, certified Historically Underutilized Business Zone (HUBZone) contractor.” SFEC is Commissioner McVoy’s outside employer.¹

SFEC’s HUBZone approval is based on its location at 30 South “M” Street. The property is HUBZone qualified until July 1, 2028.² The HUBZone program provides contracting assistance to small businesses located in economically distressed communities, to promote job growth, capital investment and economic development in these areas, including Indian reservations. The program’s benefits for HUBZone-certified companies include competitive and sole source contracting, a 10% price evaluation preference in full and open contract competitions, as well as subcontracting opportunities. The federal government has a goal of awarding 3% of all dollars for federal prime contracts to HUBZone-certified concerns. Questions have been raised about whether the increased development in the area could lead to the removal of the HUBZone designation since areas that improve beyond the socioeconomic thresholds required for HUBZone status can potentially be redesignated.

ANSWER:

The Code prohibits public officials from using their official position in any manner that would result in a special financial benefit to certain persons or entities, including to themselves or their outside employer.³ Similarly, the Code also prohibits public officials from voting on an issue or participating in any matter coming before their board that would result in a special financial benefit to themselves or their outside employer.⁴

Whether a matter rises to the level of a prohibited conflict of interest depends on whether a prohibited entity will receive any special financial benefit. The COE has previously opined that “financial benefit” constitutes economic gain or loss.⁵ In evaluating a conflict of interest under the Code, the COE considers the number of persons or entities who stand to gain or lose financially from a decision and whether the gain or loss is remote and speculative. As the COE has previously opined, there is no bright line in determining the number of entities who would need to be similarly affected to transform a personal gain into a gain or loss shared with similarly situated members of the general public.⁶ Therefore, the determination of whether a measure will result in a financial benefit not shared with similarly situated members of the general public turns on the size of the class of persons or entities who stand to benefit from the measure.⁷ Where the size of the class is large, a prohibited financial gain would result only if there are circumstances unique to the official that would enable the prohibited entity to benefit more than the other entities within the class. However, where the class of persons who stand to gain or lose from a decision is small, it is more likely that an official will

¹ Commissioner McVoy disclosed that in 2024 he earned less than \$100 from SFEC. However, this does not negate the fact that SFEC is considered Commissioner McVoy’s outside employer under the Code.

² It appears that the entire HUBZone within the City will be next evaluated in 2028, thus this time-frame is not specific to SFEC.

³ Section 2-443(a), *Misuse of official position or employment*.

⁴ Section 2-443(c), *Disclosure of voting conflicts*.

⁵ RQO 10-013 (For the purpose of ordinance construction, the commission finds that a financial benefit includes a private gain or loss).

⁶ *Id.*

⁷ RQO 14-036

have a conflict.⁸ The general line drawn by the COE, and by the Florida Commission on Ethics, is that no voting conflict is present in situations where the interest of the public official involves 1% or less of the class; in other words, where 100 or more persons or entities are affected by the vote.⁹ While the "1% Rule" may be an arbitrary cutoff point, it provides certainty and guidance in an area of the law that otherwise lacks clarity.

Here, the class is defined by the properties contained within the federally recognized HUBZone near the WMODA project; there are hundreds of parcels contained within this HUBZone. Thus, SFEC's and Commissioner McVoy's interest in the area is less than one percent. Further, the facts do not indicate that SFEC's location provides a unique circumstance wherein any potential personal gain or loss by this vote would exceed significantly that of other property owners located within the HUBZone. Therefore, because any economic benefit or loss from the WMODA project affects a class large enough to remove any prohibited financial benefit to SFEC, the Code does not prohibit Commissioner McVoy from voting on or participating in discussions surrounding the WMODA project.¹⁰

Additionally, when analyzing whether an action would result in a prohibited entity receiving a special financial benefit, the COE has held that any such financial benefit must be direct and immediate, rather than remote and speculative.¹¹ Similarly, the Florida Commission on Ethics has also determined that when uncertainty exists at the time of a vote as to whether a measure directly affects a person or entity, any gain or loss from the vote is remote and speculative, and the official would not be precluded from voting.¹²

Here, based on the facts presented, there does not seem to be any direct nexus between a vote on the project and any potential economic gain or loss to SFEC. Further, the HUBZone reevaluation will not occur for several years. Any number of things could occur during this time frame that would impact the nature of the involved area. Considering this, it is remote and speculative whether any vote on this matter would result in a prohibited entity receiving a special financial benefit. Therefore, considering the facts as provided, the Code does not prohibit Commissioner McVoy from voting on or participating in discussions involving this project as long as his participation does not result in a special financial benefit to any of the prohibited persons or entities listed in Section 2-443(a).

Finally, while the Code does not restrict Commissioner McVoy's participation and vote as long as the guidance in this opinion is followed, he must be mindful that as a public official, no quid pro quo or other benefit may be given for an official act or the past, present, or future performance of a public duty.¹³ Additionally, as a general reminder, the Code prohibits anyone from using his or her official position to corruptly secure a special benefit of any kind for anyone, including an outside employer.¹⁴

⁸ CEO 92-37 (two percent or eight percent of the property to be affected is of sufficient size to result in a "special" gain); CEO 93-19 (measure to construct a sidewalk affecting 40 homes would not affect enough persons in order for its effect not to be considered "special" under the voting conflicts law).

⁹ CEO 78-96; CEO 84-80; CEO 87-18; CEO 87-95; CEO 92-52; CEO 93-12

¹⁰ The COE has considered the associated parking garage as a part of the WMODA project.

¹¹ RQO 12-063

¹² CEO 85-77; CEO 05-15; CEO 91-61; CEO 12-19

¹³ Sec. 2-444(e)

¹⁴ Sec. 2-443(b)

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-443(a) and Sec. 2-443(c) of the Code:

Sec. 2-443. Prohibited conduct.

- (a) ***Misuse of public office or employment.*** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, or attempt to do any of these things, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:
- (1) Himself or herself;
 - (4) An outside employer or business of his or hers...
- (c) ***Disclosure of voting conflicts.*** County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above. The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, as set forth in subsections (a)(1) through (7).

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. This opinion is not applicable to any conflict under state law, or with any relevant provision within the rules of The Florida Bar. Inquiries regarding possible conflicts under state law or bar rules should be directed to the State of Florida Commission on Ethics or The Florida Bar.

Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Christie Kelley,
Executive Director

RG/gl