



To: Mayor and City Commissioners, for the City of Coral Gables

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables

MSR

RE: Legal Opinion LaSalle Dry Cleaners Lot Sale

Date: July 9, 2018

Mayor Raúl Valdés-Fauli is a practicing attorney. In approximately February of 2017, in his capacity as a private attorney, he represented a potential buyer for the property located at 2341 and 2345 LeJeune Road, known as the LaSalle Dry Cleaners lot (LaSalle). At that time, the Mayor spoke to the then-City Attorney about the relationship. Considering that the potential buyer would likely redevelop the property, the then-City Attorney advised the Mayor that, in an abundance of caution, he should withdraw from the representation and, that if the matter went before the City Commission, he should recuse himself and not participate.¹ Following the then-City Attorney's advice, the Mayor withdrew from the representation. Ultimately, the sale did not go through and the property is still owned by the LaSalles.

On March 27, 2018, the City Manager placed the following item on the City Commission meeting agenda: A Resolution Authorizing the City of Coral Gables to Enter into a Parking Lease with MML Properties, LLC, as a Tenant, with regard to the Property Located at 2341-2345 LeJeune Road, Coral Gables, Florida for a period of Five (5) Years. The Mayor voted in favor of the item, as he had no voting conflict.

On July 10, 2018, Commissioners Mena and Lago placed the following discussion item on the City Commission agenda: Discussion regarding LaSalle Dry Cleaners proposed demolition. The Mayor may participate in the discussion and, should a motion be made, he may also vote on this matter as he does not have a voting conflict.

Applicable Law and Analysis:

The Miami-Dade Ethics Ordinance speaks to voting conflicts in the second paragraph of Sec. 2-11.1(d) which states in pertinent part:

No [*Commissioner*] shall vote on or participate in any way in any matter presented to the [City Commission] if said person has any of the following

¹ Although the lot is zoned "Commercial," depending on how the potential buyer intended to redevelop the property, the project may have needed to go to the City Commission for approval.

relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the [City Commission]: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor, *if* in any transaction or matter would affect [the Commissioner] in a manner distinct from the manner in which it would affect the public generally. Any [City Commissioner] who has any of the above relationships or who would or might directly or indirectly profit or be enhanced by the action of the [City Commissioners] shall absent himself or herself from the Commission meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter.

While the Mayor was representing the potential buyer, depending on the specific circumstances, he may have had a voting conflict under this section. Accordingly, he followed the former City Attorney's advice in that regard.

When the Mayor voted in favor of the resolution authorizing the City Manager to enter into the parking lease agreement, however, the Mayor did not have a voting conflict. When the vote took place, the Mayor had no relationship with or to LaSalle, the parking lease would not "affect the [Mayor] in a manner distinct from the manner in which it would affect the public generally," and the Mayor would not "directly or indirectly profit or be enhanced by the action..."

Similarly, the Mayor does not have a conflict that would prevent him from participating in the discussion regarding the demolition of LaSalle on July 10th or from voting, should a motion be made. As stated above, the Mayor has no relationship with or to LaSalle. Consequently, any vote taken by the Commission would not affect him in a manner distinct from the manner in which it would affect the public generally and he would not profit or be enhanced by the action taken by the Commission.

The corresponding state law provision (Sec. 112.3143, F.S.) relating to voting conflict states, in pertinent part, as follows:

No...municipal...officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer.

A "special private gain or loss" means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.

4. The degree to which the officer, his or her relative, business associate, or principal receive a greater benefit or harm when compared to other members of the class.

As with the analysis above, while the Mayor was representing the potential buyer, it is possible that he had a voting conflict under the statute. Thus, he withdrew from the representation and committed to not participate in any Commission action involving the party he represented.

When the Mayor voted in favor of the resolution authorizing the City Manager to enter into the parking lease agreement, however, the Mayor did not have a voting conflict under the statute. The resolution involved the City entering into a parking lease agreement with LaSalle and the Mayor had no relationship with LaSalle. Consequently, that action could not possibly inure to the Mayor's private benefit or loss or to that of a principal he was hired to represent, as he represented no party in the matter.

For the same reasons, the Mayor does not have a conflict that would prevent him from participating in the discussion regarding the demolition of LaSalle on July 10th or from voting, should a motion be made.

In conclusion, the Mayor's prior representation of a potential buyer for LaSalle on a sale that never materialized, did not create a voting conflict for the Mayor to vote on the resolution authorizing the City Manager to enter into a parking lease agreement and does not prohibit the Mayor from participating in the discussion and any potential vote taken at the July 10th meeting regarding LaSalle.

This opinion is issued pursuant to Sections 2-252(e)(1) and (8) of the City Code and Section 2-300 of the City's Ethics Code authorizing the City Attorney's Office to issue opinions and interpretations on behalf of the City.

July 2018

CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

OPINION REGARDING LASALLE DRY CLEANERS LOT SALE

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¹ Although the lot is zoned "Commercial," depending on how the potential buyer intended to redevelop the property, the project may have needed to go to the City Commission for approval.

While the Mayor was representing the potential buyer, depending on the specific circumstances, he may have had a voting conflict under this section. Accordingly, he followed the former City Attorney's advice in that regard.

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3. The degree to which the interests of all members of the class are affected by the vote.
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