



OFFICE OF THE CITY ATTORNEY

November 16, 2021

City of Tallahassee Independent Ethics Board
300 S. Adams Street
Tallahassee, FL 32301

Re: Board Jurisdiction Concerning Outside Agencies

Dear Members of the Independent Ethics Board:

Based on my review of the November 16, 2021, legal memorandum of your legal counsel to your Chair, Mr. Carlos A. Rey, you have apparently directed your legal counsel to provide an opinion regarding whether independently created boards upon which City Commissioners serve as members are subject to the jurisdiction of the Independent Ethics Board. Based on the plain language of the City Charter, my opinion as to your inquiry is answered in the negative. Because I have previously opined on this question, I wanted to provide you my opinion as the official charged with the responsibility under Section 29 of the City Charter with providing legal opinions to City officials as to their respective powers and duties.

Sec. 61. - Ethics Code and Ethics Board to be established.

Ethics Code. The City Commission shall, within six (6) months of the enactment of this charter provision, enact an ethics, or conflicts of interest, code with jurisdiction over the officers and employees of the City of Tallahassee, whether elected or appointed, paid or unpaid, and over the members, officers and employees of any boards, commissions, or committees thereof. The ethics code may, as allowed by law, supplement state ethics laws.

As stated above in the City Charter, the jurisdiction of the Ethics Board is limited to officers and employees of the City of Tallahassee and members, officers, and employees of City of Tallahassee boards, commissions, and committees. Unless passed by referendum of the voters pursuant to Florida Statutes, Section 166.031, this jurisdiction cannot be expanded by either the City Commission or the Independent Ethics Board. Both the Blueprint Interlocal Agency (Blueprint) and the Community Redevelopment Agency (CRA) are independent legal entities. Their board members and employees are not subject to the jurisdiction of the Independent Ethics Board.

Both governmental entities have the authority to hire their own employees under Florida law and have done so. See Florida Statutes, Section 163.01(5) and (7)(a) for Blueprint and Sections 163.356(3)(c) 163.357(1)(b) for CRA. Entering into agreements with the City of Tallahassee to provide for benefit administration does not convert these separate local legal

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City of Tallahassee Independent Ethics Board
November 16, 2021
Page Two

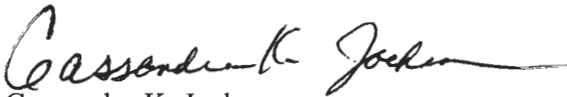
entities' employees into City of Tallahassee employees. As for City Commissioners serving as Board members of these legally separate and independent entities, the City Commissioners are subject to the City's ethics code and the jurisdiction of the Independent Ethics board to the extent that the local ethics code has requirements that are operative regardless of particular office, i.e., the local full financial disclosure requirement. As for the acceptance of gifts, a City Commissioner could not accept a gift from a CRA or Blueprint vendor who is also a City vendor because of the prohibition under Section 2-15, City of Tallahassee Code, of accepting gifts from City vendors. However, a City Commissioner could accept a gift from a CRA or Blueprint vendor that was not a City vendor if the gift did not exceed \$100.00 in value as this is permitted by Florida's Ethics Code to which a City Commissioner is subject as a reporting individual. See Florida Statutes, Section 112.3148(4).

Additionally, it is the State Ethics Commission before whom a complaint regarding misuse of position when acting as a Blueprint or CRA Board member or employee should be brought, not the Independent Ethics Board as the Board members would not be acting as City Commissioners or employees. See Section 2-8, Tallahassee Code of Laws, "No public official or employee of the **city** shall use or attempt to use his or her official position or any city property or resource which may be within his or her trust, or perform or fail to perform, his or her official duties, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special privilege, benefit, or exemption for himself or herself or others".

In conclusion, City Commissioners serving in the capacity of board members of Blueprint and the CRA **and** employees of Blueprint and the CRA are not subject to the Independent Ethics Board's jurisdiction and can be made subject thereto only by referendum of the electors.

Thank you for the opportunity to clarify these matters.

Sincerely,


Cassandra K. Jackson
City Attorney

cc: Mayor and City Commissioners
Reese Goad, City Manager