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Date: September 16, 2016

To: Honorable Supervisors of the County Board

cc: County Clerk Joseph Czarnezki (c/o Janelle Jensen)
County Executive Chris Abele
County Comptroller Scott Manske
Ethics Board Chair Christian B. Flores
Deputy Corporation Counsel Paul Kuglitsch
Interested Parties

From: Interim Corporation Counsel Colleen Foley

Re: Referral of File 16-179

At its July 28, 2016 meeting, your honorable body referred File 16-179 to the Office of Corporation Counsel pursuant to MCO 1.15. That ordinance allows a one-third minority of the County Board to refer a matter to Corporation Counsel for a "written opinion ... as to the legality of the resolution or ordinance offered, or the recommendation made in any report presented to the county board for adoption." In particular, the referral requested that Corporation Counsel consult with the Ethics Board on the merits of the following proposal:

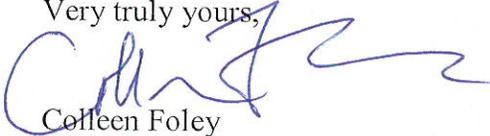
From Corporation Counsel, on behalf of the Milwaukee County Pension Board, requesting authorization to amend Section 9.03(4) of the Milwaukee County Code of General Ordinances regarding annual Statement of Economic Interest filing requirements for Pension Board members and officers.

On February 17, 2016, the Pension Board voted 6-0 to request that the County Board amend the ethics code requirement that Pension Board members and officers file a statement of economic interest (SEI) on a quarterly versus annual basis, as instituted in 2004. Attached is the September 14, 2016 opinion of the Ethics Board.¹ That opinion acknowledges that Pension Board members have greater fiduciary duties than other county employees, officers, and officials but recommends quarterly SEI filings only for substantive change(s) to annual filings. The Ethics Board further recommends that the County Board define "substantive changes" to clarify when that responsibility is triggered. Should the County Board adopt the Ethics Board recommendation, this office suggests this definition of "substantive changes(s)": real or actual; of considerable amount or quantity; having practical importance, value, or effect; significant modification or expansion in nature and scope.

¹ The opinion is titled as "confidential", however the Ethics Board Chair granted permission for public disclosure under the circumstances.

Honorable Supervisors of the County Board
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Very truly yours,

A handwritten signature in blue ink, appearing to read 'Colleen Foley', written over the typed name.

Colleen Foley
Interim Corporation Counsel

Enclosure



Milwaukee County Ethics Board

CONFIDENTIAL

DATE: September 14, 2016

TO: Attorney Colleen Foley, Deputy Corporation Counsel
Attorney Jim Carroll, Principal Assistant Corporation Counsel

FROM: Christian B. Flores, Chair, Ethics Board

RE: Advisory Opinion regarding Proposed Ordinance Change to Statements of Economic Interests Filing Requirements for Pension Board Members and Officers

This memorandum is in response to your request for an advisory opinion on whether the Milwaukee County Ethics Board (the "Ethics Board") has any reservations about the proposed ordinance change regarding annual Statements of Economic Interests filing requirements for Milwaukee County Pension Board (the "Pension Board") members and officers.

The Ethics Board understands the facts as follows:

The Milwaukee County Ethics Code (the "Ethics Code") was amended in 2004, to add a requirement that Pension Board members and officers file a Statement of Economic Interests ("SEI") on a quarterly basis, rather on the annual basis required of all other County officers, employees, and officials. The amendment was the result of Pension Board members abusing their positions and accepting substantial gifts from vendors without disclosing them on their SEI's. None of the 2004 Pension Board members are serving on the current Pension Board. The Pension Board is asking the Milwaukee County Board of Supervisors (the "County Board") amend the requirement that Pension Board members and officers file a quarterly SEI to require Pension Board members and officers file an annual SEI. The Pension Board's reasoning is that quarterly filing is burdensome to those members and officers who have significant investments to list every quarter. Additionally, the Pension Board wishes to be treated as all other employees, officers and officials and file their SEI annually. The Committee on Judiciary, Safety, and General Services recommended adoption of the proposed ordinance in May, 2016. The County Board referred the ordinance change to Corporation Counsel to seek the input of the Ethics Board in July, 2016.

The Ethics Board has reservations concerning the large amount of money the Pension Board controls and the fiduciary duties that coincide with that responsibility. The Ethics Board does not agree that Pension Board members are like other employees, officers and officials as the large amount of money they have access to and control is much more than most other county employees and officials. However, the Ethics Board is sympathetic to the Pension Board's desire to decrease the burdensome paperwork of quarterly SEI filings. Therefore, the Ethics Board suggests that, for the sake of transparency, the proposed ordinance change provide that Pension Board members and officers should only be required to file a quarterly statement if there are any substantive change(s) to their annual filing. The Ethics Board would further recommend that the County Board define what it deems "substantive changes" so that it is clear to the Pension Board members and officers when this requirement would be triggered.

This opinion only applies to the scenario as set forth above, and it should not be used for general application to other facts or scenarios. Pursuant to the Ethics Code, your request and this opinion will remain closed to public inspection unless you request in writing that it be made a public record. Please note this memorandum is from the Ethics Board Chair as you have requested a response prior to the full Board's next meeting in November.

Sincerely,

/s/ Christian B. Flores

Christian B. Flores, Chair

Milwaukee County Ethics Board

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