

PROPOSED

RESOLUTION NO.

1 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO THE CONFLICT OF INTEREST POLICY FOR
3 OUTSIDE LEGAL COUNSEL; AMENDING SECTION 18.88 OF THE BROWARD
4 COUNTY ADMINISTRATIVE CODE (“ADMINISTRATIVE CODE”); AND PROVIDING
5 FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN
6 EFFECTIVE DATE.

7
8 WHEREAS, Section 18.88 of the Broward County Administrative Code
9 (“Administrative Code”) ensures that while retained by Broward County (“County”),
10 outside legal counsel representing the County must not represent parties with interests
11 that conflict with or are adverse to those of the County, and currently prohibits such
12 retained counsel from representing any party before the Broward County Board of County
13 Commissioners (“Board”) on any matter, whether or not adversarial; and

14 WHEREAS, provided certain important conditions are met, including the written
15 approval of the Broward County Attorney (“County Attorney”), the Board desires to amend
16 the Administrative Code to allow outside legal counsel to represent other parties before
17 the Board on land use or land development matters, provided that outside legal counsel
18 discloses this representation to the County Attorney and the County Attorney approves in
19 writing of such representation, NOW, THEREFORE,

20 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
21 BROWARD COUNTY, FLORIDA:

22 Section 1. Section 18.88 of the Broward County Administrative Code is hereby
23 amended to read as follows:

24 **18.88. Conflicts of Interest Policy for Outside Legal Counsel.**

25 a. While retained by Broward County, outside legal counsel shall not act as
26 counsel for any other party whose interests in a matter are adverse or contrary to the
27 interests of Broward County, including, but not limited to, any lawsuit, adversarial
28 proceeding, negotiation, lobbying, or other matter. If the County Attorney, in ~~his or her~~
29 their sole discretion, determines that no material conflict of interest ~~contrary to the~~
30 ~~County's interest will~~ would result, outside legal counsel may represent other parties in
31 negotiations that are ongoing at the time of retention.

32 b. Outside legal counsel shall not represent any party before the Board of
33 County Commissioners ("County Commission") on any matter, whether or not adversarial.
34 However, after disclosure of the proposed representation to the County Attorney and
35 receipt of written approval from the County Attorney, outside legal counsel may represent
36 another party before the County Commission on land use or land use development
37 matters, provided that such representation is permitted under professional rules and
38 applicable laws and regulations. Written approval shall not be granted if the County
39 Attorney determines that the representation would result in a conflict of interest or cause
40 material prejudice to the County's interests.

41 c. When otherwise permitted by the professional rules and applicable laws and
42 regulations, outside legal counsel may represent another party before Broward County
43 staff and boards to request a determination or ruling, and to negotiate settlements, under

44 applicable ordinances, rules, regulations, resolutions, contracts, procedures, or other
45 governing provisions; ~~but,~~

46 d. ~~i~~n no event shall outside legal counsel challenge or seek to overturn any
47 Broward County ordinance, rule, regulation, contract, procedure, or other governing
48 provision under which a determination or ruling is sought.

49 e. In the event outside legal counsel represents a preexisting client, or has a
50 question regarding whether a proposed future representation may constitute a conflict of
51 interest, counsel shall immediately bring such matter to the attention of the County
52 Attorney for the purpose of having the County Attorney determine, in ~~his or her sole~~ their
53 discretion, whether such representation is acceptable to Broward County. All such
54 determinations will be made on a case-by-case basis.

55 Section 2. Severability.

56 If any portion of this Administrative Code Resolution is determined by any court to
57 be invalid, the invalid portion will be stricken, and such striking will not affect the validity
58 of the remainder of this Administrative Code Resolution. If any court determines that this
59 Administrative Code Resolution, in whole or in part, cannot be legally applied to any
60 individual, group, entity, property, or circumstance, such determination will not affect the
61 applicability of this Administrative Code Resolution to any other individual, group, entity,
62 property, or circumstance.

63 Section 3. Inclusion in the Broward County Administrative Code.

64 It is the intention of the Board of County Commissioners that the provisions of this
65 Administrative Code Resolution become part of the Broward County Administrative Code
66 as of the effective date. The sections of this Administrative Code Resolution may be

