

October 31, 2006

Lucia A. Dougherty
Greenberg Traurig
1221 Brickell Avenue
Miami, FL 33131

RE: RQO 06-55

Dear Mrs. Dougherty:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 30, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Richard Heisenbottle may serve as architect of record for historic preservation projects funded by the GOB bond program. Heisenbottle is Immediate Past Chair of the Dade Heritage Trust.

In your request, you advised the Commission that in November 2004, Miami-Dade voters approved the Building Better Communities Bond Program. The ballot question specifically provided for funding for several historic preservation projects including the Old Miami High School, the Hubbard/Alvarez Bungalow in Little Havana, the Flagler Memorial, Curtiss Mansion in Miami Springs and the original entrance to Parrot Jungle in Pincrest. The program also provided for the creation of the Dade Heritage Trust Preservation Fund.

During consideration of the bond program, the Dade Heritage Trust in conjunction with the Office of Historic Preservation, conducted community meetings to solicit suggestions for historic projects that should be funded by

the bond program. The Dade Heritage Trust submitted a list of fifteen projects. Eleven projects were chosen for funding. Heisenbottle was architect of record for one of the projects. Heisenbottle was Vice-Chair of the Dade Heritage Trust at the time the projects were approved by the Board of County Commissioners.

The Dade Heritage Trust and Miami-Dade County are currently negotiating an arrangement for administration of the Historic Preservation Fund. The parties contemplate that a joint committee will be created to evaluate and recommend projects for funding. Heisenbottle may serve as architect for record for some projects that will request funding by the Historic Preservation Fund. Heisenbottle is currently as a non-voting member of the Dade Heritage Trust.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits Heisenbottle to serve as architect of record for recommended projects that receive GOB funding. However, Heisenbottle is prohibited from serving on any selection committee that makes recommendations for projects where he is serving as architect of record or may provide services in the future.

The board members of the Dade Heritage Trust are not covered by the Conflict of Interest and Code of Ethics ordinance. The Dade Heritage Trust is a private non-profit corporation and not a county entity. Therefore, Heisenbottle's actions as a board member are not governed by the Conflict of Interest and Code of Ethics ordinance.

However, the members of any joint selection or evaluation committee are governed by the Conflict of Interest ordinance. The County grant agreement with GOB recipients specifically provides that "the grantee covenants and agrees with the County to comply with the Miami-Dade County Ordinance

72-82 (Conflict of Interest)". Section 2-11.1(n) prohibits covered persons from taking action where their personal financial interests are involved. Therefore, Heisenbottle may not participate in the evaluation and selection process where he would serve as architect of record on a project.

Accordingly, Heisenbottle may work as an architect of record on GOB funded historic preservation projects. However, pursuant to the GOB grant agreement, Heisenbottle is prohibited from participating in the evaluation and selection process for any project funded by the Historic Preservation fund where he may provide services.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director

cc: Roger Hernstadt, Office of Capital
Improvements
Becky Roper Matkov, Dade Heritage Trust