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May 21, 2007

Robert L. Vernon, Mayor
Village of Key Biscayne
88 West McIntyre St.
Key Biscayne, FL 33149

FAX: 305 361-7699

Re: ROO 07-15

Dear Mayor Vernon:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on May 17, 2007.

YOU ASKED if you had a voting conflict regarding approval of the Village Evaluation and Appraisal Report, scheduled to be voted on May 22, 2007.

IN SUM, the Ethics Commission opined that you are prohibited from voting on and participating in matters dealing with the Evaluation and Appraisal Report because of a perception that you might, directly or indirectly, profit or be enhanced by engaging in an action related to a person with whom you have an independent consultant relationship.

THE LEGAL BASIS for this prohibition is found at Section 2-11.1 (d) of the Ethics Code.

Section (d) states in pertinent part—

Any [mayor]...who would or might, directly or indirectly, profit or be enhanced by the action of the [village council] shall absent himself or herself from the [council] meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter. (Emphasis added.)

The Ethics Commission recognizes that Edgardo DeFortuna has ownership interests in two distinct companies, Fortune International Realty, Inc., where you have your real estate license, and a separate development company, SBR-Fortune Associates. However, your vote on a policy matter that explicitly advantages Mr. DeFortuna's development company could conceivably enhance your business relationship with Mr. DeFortuna at Fortune International Realty. Because of this

possible enhancement to you, you must recuse yourself from voting on or participating in matters dealing with the Evaluation and Appraisal Report.

This opinion construes the Miami-Dade Conflict of Interest & Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact Victoria Frigo, Staff Attorney, at (305) 350-0601, or Robert Meyers at (305) 579-2594, if we can be of further assistance in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Robert Meyers', followed by a long horizontal line extending to the right.

ROBERT MEYERS
Executive Director

