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October 24, 2007

Richard Kuper, Esq.
Law Offices
226 East Flagler St., Suite 200
Miami, FL 33131

Via **First Class Mail and Fax at (305) 373-8509**

Re: **RQO 07-49**
Miami-Dade County Code of Ethics at § 2-11.1 (v)

Dear Mr. Kuper:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on October 24, 2007.

The Commission found that you, as a member of the City of Miami Beach Planning Board, may vote on matters presented to the Planning Board by persons whose firms are nonvoting associate members of the Miami-Dade County League of Cities. This opinion is premised on two provisos, *i.e.*, you will not be directly affected by matters presented by these nonvoting associate members, and you will not have any of the following relationships with nonvoting associates appearing before the Board—officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or stockholder, bondholder, debtor or creditor. *See* Miami-Dade County Ethics Code at 2-11.1 (v).

In your letter dated October 20, 2007, you stated that you are employed as the Executive Director of the Miami-Dade County League of Cities, Inc., a nonprofit Florida corporation. The League's Executive Board and Board of Directors are composed of elected officials who are full-fledged voting members of the League. They are responsible for League operations, including retaining you and establishing your salary and benefits. Nonvoting associate members, composed of law firms, accounting firms, architects, engineers, and others, have no influence over the general operations of the League nor over any action initiated by the League regarding you.

Section 2-11.1 (s) (1)(v) of the Ethics Code states:

Voting Conflicts: Members of Advisory and Quasi- Judicial Boards. No ... quasi-judicial personnel... shall vote on any matter presented to [a] ... quasi-judicial board on which the person sits if the board member will be ***directly affected by the action of the board*** on which the member serves, ***and*** the board member has any of the following relationships with any of the persons or entities appearing before the board: ***(i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor.***
(Emphasis added.)

Because nonvoting members have no influence over the operations of the League, including any action that would directly affect you in your capacity as Executive Director at the League, you do not have a voting conflict under the first part of the ordinance when individuals from nonvoting member-firms present matters before the Miami Beach Planning Board. Additionally, because your employment as Executive Director at the League does not create any of the enumerated relationships noted above, you do not have any voting conflicts under the second part of this ordinance. You are reminded, however, of your duty to remain fair and impartial when individuals from nonvoting associate-member firms appear before you at the Miami Beach Planning Board.

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.

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.

Sincerely yours,



ROBERT MEYERS
Executive Director

Copies via First Class Mail and Fax at (305) 673-7002

Jose Smith, City Attorney
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