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ARDYTH WALKER
STAFF GENERAL COUNSEL

October 2, 2006

Rosie Caraballo
Administrative Secretary
Department of Water and Sewer
3575 S. LeJeune Road
Miami, FL 33134

RE: REQUEST FOR ADVISORY OPINION 06-48

Dear Ms. Caraballo

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 27, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether having rental properties constitutes outside employment.

In your letter, you advised the Commission that you own a duplex and you have rented it for fifteen years. You do not rent to county employees. You are an administrative secretary in the engineering division of WASD. You have not requested permission for outside employment and do not annually report rental income.

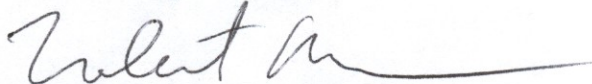
The Commission found the rental of a single piece of residential property or a duplex does not constitute outside employment. Section 2-11.1(k)(2) provides that "all full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality

or any of their agencies or instrumentalities shall file under oath an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from said outside employment." Under this section, a person may be engaged in self-employment that requires disclosure. An employee who rents or sells multiple properties is engaged in a business venture and must report it as outside employment. However, you are not engaged in a business venture and do not have to report the ownership as outside employment.

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,

A handwritten signature in dark ink, appearing to read 'Robert Meyers', with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director

TRANSMISSION VERIFICATION REPORT

TIME : 10/03/2006 22:15
NAME : COMMISSION ON ETHICS
FAX : 3055790273
TEL : 3055792594
SER.# : BRO020157947

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Biscayne Building
9 West Flagler Street
Suite 207
Miami, Florida 33130
Phone: (305) 579-2594
Fax: (305) 579-1093
(305) 579-0273
(305) 373-3791

Miami-Dade County Commission on Ethics and Public Trust

FAX

To: Bill Collins - ERD From: Rachelle Ceden

Fax: 305 375 4135/3063 Pages: 3

Phone:

Date: 10-3-06

Re: BOC 06-48

CC:

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

PLEASE SEE ATTACHED.

Biscayne Building
19 West Flagler Street
Suite 207
Miami, Florida 33130
Phone: (305) 579-2594
Fax: (305) 579-1093
(305) 579-0273
(305) 373-3791

Miami-Dade County Commission on Ethics and Public Trust

Fax

To: Bill Collins - ERD From: RACHELLE CEDEÑO
Fax: 305 375 4135/3063 Pages: 3
Phone: _____ Date: 10-3-06
Re: R00 06-48 CC: _____
☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

PLEASE SEE ATTACHED.

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M E M O R A N D U M

TO: COMMISSION ON ETHICS AND PUBLIC TRUST
FROM: ARDYTH WALKER, STAFF GENERAL COUNSEL
RE: RQO 06-48
DATE: AUGUST 22, 2006
.....

BACKGROUND

Rosie Carballo, an Administrative Secretary for the Water and Sewer Department (WASD), is seeking an advisory opinion regarding whether having rental properties constitutes outside employment.

FACTS

Carballo owns a duplex and has rented it for fifteen years. Carballo does not rent to county employees. Carballo is an administrative secretary in the engineering division of WASD. Carballo has not requested permission for outside employment and does not annually report rental income.

ARGUMENT

The rental of a single piece of residential property does not constitute outside employment. Section 2-11.1(k)(2) provides that "all full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality or any of their agencies or instrumentalities shall file under oath an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from said outside employment." Under this section, a person may be engaged in self-employment that requires disclosure. An employee who rents or sells multiple properties is engaged in a business venture and must report it as outside employment. However, in the instant case, the employee is not engaged in a business venture and does not have to report the ownership as outside employment.

CONCLUSION

Section 2-11.1(k)(2) does not require an employee to report the rental of a single piece of residential property as outside employment. An employee only has to report participation in a business venture or work for a third party. Accordingly, an employee would have to report rental or sale of multiple properties as a business venture. However, a single piece of rental income does not rise to the level of a business venture and does not have to be reported.

Meyers, Robert (COE)

ROSS 06-48

From: Caraballo, Rosie (WASD)
Sent: Wednesday, July 26, 2006 1:29 PM
To: Meyers, Robert (COE)
Cc: Ross, Karl A. (COE)
Subject: RE: ethics commission request

As suggested, please consider this a **Formal Request for Opinion** from the Commission of Ethics and Public Trust to investigate and render an advisory opinion regarding whether or not owning rental property "constitutes outside employment."

I own a duplex which I've been renting for approximately 15 years and a house that I've been renting for almost three (3) years of which I receive rental income from my tenants. That I know of, my tenants are not associated with the County in any way. Having rental property does not affect nor interfere with my job with Miami Dade County. I don't consider owning rental property and having rental income as outside employment. Having outside employment and owning personal property for rental purposes are totally different activities. I await your opinion. Thank you.

From: Ross, Karl A. (COE)
Sent: Tuesday, July 25, 2006 5:40 PM
To: Caraballo, Rosie (WASD)
Subject: RE: ethics commission request

Ms. Caraballo,

I discussed this matter with Robert Meyers, our executive director, and he feels that you should make a formal Request for Opinion (RFP) from the Ethics Commission as to whether your rental properties constitute "outside employment." He would encourage you to do this prior to the August meeting.

This would require you to send a letter to the commission describing the extent of your rental activities and asking for an opinion as to whether you should seek authorization for outside employment. You may also learn more about the process on our Website, available through www.miamidade.gov.

The other option would be for us to continue with the investigation, which could result in the filing of an ethics complaint.

If you have any questions about how to request an opinion, you may contact Mr. Meyers at (305) 579-2594.

Regards, Karl

-----Original Message-----

From: Caraballo, Rosie (WASD)
Sent: Tuesday, July 25, 2006 10:40 AM
To: Ross, Karl A. (COE)
Subject: RE: ethics commission request

Can you please provide additional details and further explain your request. I am very confused as I have never had outside employment during my entire time working for the County for the past 22 years. I don't consider owning a rental property and having rental income as outside employment. Having outside employment and owning personal rental properties are totally different activities. As you hopefully understand I would prefer not to discuss the specifics of my rental property with you or anybody else as I feel this is personal information. Thanks for your cooperation.

Rosie Caraballo
 305 - 669-7826

7/26/2006