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September 10, 2002

Norman Wartman
965 N.W. 201st Avenue
Pembroke Pines, FL 33029

RE: REQUEST FOR ADVISORY OPINION 02-100

Dear Mr. Wartman:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 9, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding the creation of a real estate investment trust.

In your letter, you advised the Commission that you are a current member of the Citizens' Transportation Advisory Board (CTAC) and a former member of the Miami-Dade Expressway Authority. The members of CTAC are charged with the responsibility of advising the county, the Board of County Commissioners and the Metropolitan Planning Organization (MPO) on the planning, implementation, operation and evaluation of all County transportation programs.

The MPO is required to develop a long-range transportation (LRT) plan which covers proposed transportation projects over a twenty-year period. The MPO also develops the Transportation Improvement Plan (TIP) which covers capital improvements provided in the long-range transportation plan. Finally, the

work included in the Transportation Improvement Program are prioritized and analyzed in the Unified Planning work Program. All of these plans are reviewed by CTAC which makes recommendations to the Metropolitan Planning Organization.

Your proposed real estate investment trust would purchase and develop property near proposed transportation projects. You would not vote on projects that would affect your investments.

The Commission found The Conflict of Interest and Code of Ethics ordinance permits you to establish a real estate investment trust and invest in properties near projects contained in public record documents. However, you may not acquire properties that will be affected by any future CTAC action or vote on any matter that will inure to the benefit of the trust.

Section 2-11.1(o) prohibits an advisory board member from acquiring a financial interest in a matter that will be affected by his or her official actions. Section 2-11.1(o) provides that no person included in the terms defined in subsections (b)(1) through (6) shall acquire a financial interest in a project, business entity or property at a time when he believes or has reason to believe that said financial interest will be directly affected by his official actions or by official actions by the County or County agency of which he is an official, officer or employee.

You are also prohibited from voting on matters that inure to the benefit of your real estate investment trust. Section 2-11.1(n) provides that no person included in the terms defined in subsections (b)(1) through (6) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. Therefore, you may not take any official

action that inures to the benefit of the trust.

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) 579-2653.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director