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STAFF GENERAL COUNSEL

August 13, 2003

Matty Chang  
9 Dragons Chinese Restaurant, Inc.  
930 East 9<sup>th</sup> Street  
Hialeah, FL 33010

**RE: REQUEST FOR ADVISORY OPINION 03-129**

Dear Mrs. Chang:

You requested an advisory opinion regarding any conflicts or restrictions related to your application for a business loan under the Countywide Business Road Impact Assistance Program. Your husband, Enrique Chang, is a Court Clerk II in the Office of the Miami-Dade County Recorder.

According to your letter submitted to the Ethics Commission, you own 9 Dragons Chinese Restaurant. Your husband Enrique Chang, who is a full-time employee with the Office of the Miami-Dade County Recorder, owns a 50% interest in the restaurant's property title. Last year, the County began capital improvements on East 9<sup>th</sup> Street, where the restaurant is located. The construction resulted in a downturn in business. Therefore, you applied for a small business loan, which is administered through the Office of the County Manager, Capital Improvements Construction Coordination department.

You were advised in a letter from the Capital Improvements Coordinator, that due to your husband's employment with Miami-Dade County, your loan application could not be further processed until a determination from the Ethics Commission that the loan transaction presents no conflict of interest under the Code of Ethics.

The Conflict of Interest and Code of Ethics Ordinance permits you to receive a small business loan under the Countywide Business Road Impact Assistance Program. Your husband's employment with Miami-Dade County does not create a conflict of interest barring participation in the loan program. Section 2-11.1 (c), "Prohibition on transacting business within the County," provides certain exceptions for County employees and their immediate family. This provision states, in part,

County employees' limited exclusion from prohibition on contracting with the county. Notwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee as defined by subsection (b)(6) [excluding departmental personnel as defined by subsection (b)(5)] or his or her immediate family as defined by subsection (b)(9) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Dade County, if the employee works in the county department which will enforce, oversee or administer the subject contract.

Since Mr. Chang works in the Office of the Miami-Dade County Recorder, and the loan program is administered through the Office of the County Manager, Capital Improvements Construction Coordination department, no conflict of interest is created by your participation in the loan transaction. Your husband's position in the County does not create any conflicts of interest since his employment is in a different department from that which

administers the loan program, and accordingly, will not require him, in any way, to have oversight, administration or enforcement over the said business loan.

This opinion construes the Miami-Dade County 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 should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

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