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April 29, 2003

Maria Alfau-Reyes
290 Northeast 89 ST
El Portal, FL 33138

RE: REQUEST FOR ADVISORY OPINION 03-69

Dear Ms. Alfau-Reyes:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 29, 2003 and rendered its opinion based on the facts stated in your request.

As part owner [33% interest] of M-CAR Consultants & Associates, Inc., ["M-CAR"] a for-profit affordable housing consulting firm, you requested an advisory opinion pertaining to any restrictions and possible conflicts related to your potential employment as a Housing Contract Compliance Analyst in the Department of Community Development, with the City of Miami. M-CAR assists affordable housing developers with funding application requests and overall project management. You advised the Ethics Commission that you are being considered for a position with the City of Miami as Housing Contract Compliance Analyst. In this capacity, your principal responsibilities will include contract administration, reviewing CDBG and HOME funding application requests, participating in selection review meetings and monitoring projects that receive CDBG and/or HOME funding to ensure compliance.

In the past, M-CAR was hired to consult on housing projects receiving CDBG and HOME funding from the City of Miami. Those projects are now complete. The firm has several past and current clients who may be developing housing projects within the City, some of which may be receiving CDBG and/or HOME funding or are eligible to

receive such funding. However, the firm presently is not working on those projects. In addition, the firm also engages in housing consulting projects outside the jurisdiction of the City of Miami. Should you obtain employment with the City of Miami, you would like to maintain your ownership interest in the firm and continue to provide consulting and management services for affordable housing development projects.

The Commission found that the Conflict of Interest and Code of Ethics Ordinance does not prohibit you from serving as a Housing Contract Compliance Analyst provided you neither handle the administration nor compliance of M-CAR client contracts. Section 2-11.1(j) "Conflicting employment prohibited" provides that,

"No person included in the terms defined in subsections (b)(1) through (b)(6) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties."

In addition, you would be prohibited from participating in the selection review process where M-CAR client applications are being considered. Section 2-11.1 (n), "Actions prohibited when financial interests involved," states that,

"No person included in 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."

Accordingly, you may accept the position with the City of Miami as long as you can delegate the contract administration and compliance duties as they relate to M-CAR's clients. However, if you could not delegate those duties, the Code of Ethics would prohibit you from accepting the position.

The Code of Ethics prohibits employees from accepting employment that would impair their independence of judgment. In order to avoid any appearance of impropriety or questions about your independence of judgment, you must not assume any responsibility for the selection, review or compliance of contracts of M-CAR clients. Furthermore, you should disclose to department officials when M-CAR

clients are submitting funding applications for consideration.

Nevertheless, you may continue to provide consulting services and other assistance to clients and projects outside the jurisdiction of the City of Miami.

In addition, should you accept the position under these conditions, Section 2-11.1 (q) of the Conflict of Interest and Code of Ethics Ordinance would then prohibit you from lobbying any City of Miami official, agency or personnel on issues related to M-CAR or its client's affordable housing projects for a period of two years after your city employment ceased.

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", with a long horizontal line extending to the right.

ROBERT MEYERS
Executive Director

Cc: Lydia Beltran-City of Miami