



ETHICS COMMISSIONERS

Kerry E. Rosenthal, Chairman
Robert H. Newman, Vice Chairman
Gail Dotson
Dawn Addy
Elizabeth M. Iglesias

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

January 22, 2004

Bruce Singer
President/CEO
Miami Beach Chamber of Commerce
1920 Meridian Avenue
Miami Beach, FL 33161

RE: REQUEST FOR ADVISORY OPINION 04-07

Dear Mr. Singer:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on January 21, 2004 and rendered its opinion based on the facts stated in your request.

As President and CEO of the Miami Beach Chamber of Commerce ["Chamber"], you requested an opinion asking whether the Chamber meets the definition of a "not for profit community based organization (CBO)" or a "neighborhood association" under the proposed "Lobbyist" exemptions defined in the Lobbyist Ordinance of the City of Miami Beach.

According to the facts submitted in your letter, the Chamber, either through its Chairman of the Board, Committee Chair or the President/CEO, appear before the City and County Commission on matters which include funding requests for the Miami Beach Visitor Center, which is operated by the Chamber. In addition, the Chamber appears before the City and County Commissions to comment on various public policy issues, legislation and projects, such as matters related to transportation, infrastructure improvements and education.

For the reasons stated below, the Ethics Commission found that the Chamber does not meet the definition of a "not-for-profit community based organization (CBO)," or a

“neighborhood association” and thereby, it does not fall under the “Lobbyist” exemptions as provided for in the Lobbyist Ordinance of the City of Miami Beach and the Conflict of Interest and Code of Ethics Ordinance. Section 2-11.1 (s) “*Lobbying*,” of the Code of Ethics Ordinance, provides certain exemptions for the term lobbyist:

The term "Lobbyist" specifically excludes the following persons: attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a **neighborhood association** without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a **not-for-profit community based organization** for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.

Although state and local law provide no legal standard defining “neighborhood association,” it is generally considered an association of residents and businesses within a specifically defined area. Membership, which is voluntary, involves the homeowners, renters, and businesses within the defined neighborhood boundaries. The issues of a neighborhood association are broad, addressing residential and business concerns.

Although the Chamber speaks on behalf of community-wide issues, it is a formally-organized, membership-based group which primarily focuses on the interests of its business members. In contrast to a neighborhood association, which is also far more localized, participation in Chamber meetings or programs requires paid membership.

The Ethics Commission further determined that the Chamber does not meet the definition of a “not-for-profit community based organization (CBO).” While the Code of Ethics does not define the term “not-for-profit community

based organization (CBO)," Florida Statutes provide some guidance. One chapter under the Florida Statutes offers the following classification:

A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation. [*See Ch. 220.183, Fl. Statutes*]

Under the Miami-Dade County Code:

A community based organization (CBO), shall refer to any not-for-profit agency, group, organization, society, association, partnership or individual whose primary purpose is to provide a community service to improve or enhance the well-being of the community of Miami-Dade County at large or to improve or enhance the well-being of certain individuals within this community who have special needs. [*See Section 26-23, Miami-Dade County Code*]

Pursuant to state and County law, the Chamber's scope of activities and purpose do not meet the definitions as provided. Although the Chamber promotes, among other things, the economic, civic, educational and cultural welfare of the City, its primary purpose is to recruit and assist new businesses and to encourage the growth of existing private industries. This purpose is narrower than that which is contemplated in the above-mentioned definitions.

Arguably, even if the Chamber was classified as a "not-for-profit community based organization (CBO)," or a "neighborhood association," the exemption only applies for the purpose of requesting a government grant or other government funding. Any other activity outside this scope, such as commenting on legislation for instance, would trigger lobbyist registration and reporting.

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 flourish extending to the right.

ROBERT MEYERS
Executive Director