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September 23, 2004

Rafael Cabrera  
Department of Water and Sewer  
3071 S.W. 38<sup>th</sup> Avenue  
Miami, FL 33146

**RE: REQUEST FOR ADVISORY OPINION 04-168**

Dear Mr. Cabrera:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 22, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any limitations on your ability to complete work on a plat waiver applications for private clients that began prior to your county employment.

In your letter, you advised the Commission that you served as a Land Surveyor for several plat waivers that are currently seeking approval from the county and the City of Doral. In order to obtain a plat waiver, an applicant must submit 20 copies of the waiver of plat survey, 3 applications signed by the owner and a copy of the recorded Warranty Deed. The survey is distributed to representatives of the various departments that comprise the plat committee. If the plat waiver meets the required criteria, the waiver is forwarded to the Board of County Commissioners. The Board of County Commissioners makes the final determination.

The Commission found you may submit plat surveys and complete survey work as the land surveyor of record as long as you do not meet with any county employees or appear before any county board or agency. Section 2-11.1(m)(1) provides that "no person included in the terms defined in subsections (b)(1), (b)(5) and (b)(6) (Commissioners, departmental personnel and employees) shall appear before any County board or agency and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form for services rendered to a third person who has applied for or is seeking some benefit from the County or a County agency, in connection with the particular benefit sought by the third person. Nor shall such person appear before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the County or a county agency through the suit in question." Therefore, Section 2-11(m) permits you to file surveys on behalf of private clients and complete any additional survey work required for approval.

However, in order to avoid the prohibition against appearances and presentations, you may not participate in any face-to-face meetings with staff. Further, you are prohibited from submitting any written documents to staff (excluding amended plans) regarding any plat waivers sought by his private clients. Further, you may accept compensation for your surveys (including any additional information or changes requested by county staff) but you may not accept any compensation related to the navigation of the plat waivers through the county approval process.

Finally, you are permitted to appear before the City of Doral or other municipalities regarding plat waiver applications as long as

your authority does not extend to the municipality in question.

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

ROBERT MEYERS  
Executive Director