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April 27, 2005

Mary Ann Eicke  
17021 North Bay Road, Unit 126  
Sunny Isles Beach, FL 33160

**RE: REQUEST FOR ADVISORY OPINION 05-32**

Dear Ms. Eicke:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 27, 2005 and rendered its opinion based on the facts stated in your request.

You requested an advisory opinion pertaining to any potential conflicts of interest should you run for office and win election to the City Commission of Sunny Isles Beach.

According to the facts submitted in your letter, you are currently a real estate sales associate at the Porto Bellagio in Sunny Isles Beach. You have served on several City committees and advisory boards, including the Charter Revision Commission. Prior to making a decision to run for office, you would like advice concerning any potential conflicts between your real estate career and your possible candidacy and election to the City Council.

The Ethics Commission concluded that under the Conflict of Interest and Code of Ethics Ordinance, you would not be prohibited from continuing your employment as a real estate sales associate with Porto Bellagio should you win election to the City Commission. However, you would be subject to certain restrictions and limitations under the Conflict of Interest Ordinance. Firstly, Section 2-11.1 (d) provides,

Additionally, no person included in the term defined in subsection (b) (1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the

following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary... or if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally.

Therefore, you could not participate in or vote on matters that pertain to your employer, Porto Bellagio. In other words, should Porto Bellagio appear before the City Commission you would have to recuse yourself.

Secondly, Section 2-11.1 (m)(1) "*Certain appearances and payment prohibited,*" provides in part,

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.

Accordingly, you would not be able to make appearances before the City Commission or any City Board on behalf of the condominium regarding any matter. This prohibition includes meetings and communications, including written correspondence, with City personnel and officials.

Lastly, Section 2-11.1 (g) provides in part, that no government official or employee shall use his or her official position to secure special privileges or exemptions. Accordingly, you must avoid using City of Sunny Isles Beach letterhead and other government resources to benefit or secure privileges for your employer.

This opinion is meant to provide general guidelines as to the restrictions under the Code of Ethics should you win election. However, you are advised to seek further clarification with respect to the application of these restrictions, if for instance, specific questions arise concerning Porto Bellagio matters or your involvement in the community's real estate and development projects.

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", written in a cursive style.

ROBERT MEYERS  
Executive Director