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June 28, 2005

David Raymond
Executive Director
Miami-Dade County Homeless Trust
111 N.W. First Street
Suite 27-310
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION 05-66

Dear Mr. Raymond:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 23, 2005 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding the application of Section 2-11.1(m)(2) (Prohibited appearances) to the activities of the Homeless Trust Board.

In your request, you advised the Ethics Commission that the Homeless Trust ("Trust") was established in 1994 to administer a local tax of 1% on certain food and beverage purchases. Pursuant to state law, the tax proceeds may be used for homeless assistance programs. The Trust's powers and duties include the development of a comprehensive community homeless plan with funding provided by the proceeds of the tax and other local, state and federal funding sources.

The enabling ordinance provides that members of the board include the Superintendent of

Schools or a School Board member, the Chairperson of the Board of County Commissioners committee which oversee housing and economic development issues; three members of the Miami-Dade League of Cities; the Miami City Manager; the District Administrator for Children and Families (DCF); the president of the Miami Coalition for the Homeless; formerly homeless persons, homeless advocates and religious leaders. The appointment process also provides that members may appoint alternates to serve and vote on their behalf.

In many instances, the ex-officio member of the Board or his or her designate is responsible for preparing, verifying and signing reports, proposals and invoices that are sent to the Homeless Trust. Additionally, the trust member may also be the only person in an organization authorized to sign contracts or execute agreements on behalf of their particular agency or organization.

The trust has standing and ad hoc committees that are comprised of trust members, local service providers and other interested parties. The standing committees are: the Executive Committee, the Services Committee; the Housing Committee and the Finance Committee. The Trust Chair appoints committee members and the committees meet on a regular basis.

The Ethics Commission found that The Conflict of Interest and Code of Ethics ordinance applies to Trust members and members of standing committees. The Conflict of Interest ordinance would not apply to members of ad-hoc committees. The Conflict of Interest ordinance would apply to standing committee members because they perform many of the policy functions delegated to the Homeless Trust Board and stand in the shoes of the board members when they make those decisions.

Section 2-11.1(m) (2) provides that no person included in the terms defined in subsections (b) (2), (3) and (4) (autonomous personnel, quasi-judicial personnel and advisory personnel) shall appear before the County board or agency on which he or she serves, either directly or through an associate 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 party who has applied for or is seeking some benefit from the County board or agency on which such person serves, in connection with the particular benefit by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the County board or agency on which such person serves through the suit in question.

For the purposes of Section 2-11.1(m) (2), an ex-officio member of the Trust serves as a representative of an organization. An ex-officio member represents a third party only when the board member acts for a person or entity other than the organization he or she was appointed to represent. Accordingly, the trustees, their designates and committee members who serve in an ex-officio capacity may sign proposals, submit reports and invoices and execute agreements for the organizations of which they are a representative.

Therefore, the Conflict of Interest ordinance applies to Trust members, designates and members of standing committees. Further, Trust members serving in an ex-officio capacity may sign proposals, submit reports and invoices and execute agreements for organizations for which the member is a designated representative. The Trust member

represents a third party only when the member appears on behalf of a person or entity for which the member is not the designated representative.

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", followed by a horizontal line extending to the right.

ROBERT MEYERS
Executive Director