

OFFICE OF THE INDEPENDENT ADVOCATE  
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST  
REPORT OF INVESTIGATION

K #: K07-104

Date Opened: August 10, 2007

Date Closed: November 5, 2008

Name of investigators: Arthur D. Skinner & Breno Penichet

**Allegation:**

This investigation was predicated upon the receipt of information from a confidential source, that North Bay Village, Commissioner Oscar Alfonso had exploited his official position by building an unauthorized unsafe structure on top of his residence located at; 7520 West Treasure Drive, North Bay Village 33 141. Additional information was developed that Commissioner Alfonso may have received a free seawall from Acme Marine Construction Inc., in return for referrals of other seawalls in need of repair as a result Hurricane Wilma.. The source stated that Alfonso may have promised Acme Marine Construction Inc. preference in getting contracts on other repairs, and contracts from the City of North Bay Village.

Section 2-11.1(g) of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance. Exploitation of official position prohibited. No person included in the terms defined in subsections(b)(1) through (6) shall use or attempt to use his official position to secure special privileges or exemptions for himself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter be ordained or adopted by the Board of County Commissioners.

**Investigation:**

A Records check conducted by COE Investigators revealed, the residence located at 7540 E. Treasure Dr. North Bay Village, Florida., Was built about 1950 and purchased May 5, 1992, (Folio #15502/129) by Oscar Alfonso and his ex-wife Phyllis Alfonso for \$225,000. On October 12, 2006, Miami Dade County Court records also show a MARITAL SETTLEMENT AGREEMENT between Oscar Alfonso and his ex-wife Nayades Romero. Part of the agreement was for Oscar Alfonso to have exclusive use of the former marital property located at 7520 W. Treasure Dr. North Bay Village, FL, in

exchange for \$100,000 paid as a lump sum payment. Alfonso agreed to buy out the wife's interest in installments starting 45 days from the date of the settlement agreement (\$50,000.00). Alfonso agreed to refinance the marital residence.

On March 15, 2007, Miami-Dade County records show that Commissioner Alfonso refinanced his residence for \$550,000 with Allied Mortgage and Finance Corporation of Sunrise, Florida. According to a subsequent document filed on July 17, 2007, Miami Dade County Court records indicate there were collaterals on the mortgage from Allied Mortgage Investment Fund to Great Florida Bank 15050 Northwest 79th Court Miami Lakes, FL 33015. According to the document. It was a collateral assignment to secure payment of that certain Promissory Note in the principal sum of \$13 million from Allied Mortgage Investment Fund and Financial Corp. to Great Florida Bank (this information was provided to The State of Florida Bureau of Financial Investigations for follow up).

On January 23, 2008, Investigators Art Skinner and Breno Penichet interviewed City of North Bay Village Assistant City Manager Robert Pushkin in the conference room at the City of North Bay Village City Hall. Present for a short period of time during the interview was City Manager Jorge Forte. Pushkin was advised of the purpose of the interview and gave the following information:

Pushkin advised that the construction of the residence of Councilman Alfonso has been going on for several years. The building permits are issued for six month periods and are automatically extended for another six months when the home and/or contractor have the progress of the construction inspected and the inspection is passed. Pushkin advised that Alfonso waits until just shortly before the permit is about to expire and has an inspection done to extend the permit.

Pushkin stated that there are no permits issued for dumpsters placed on the owner's property during the construction. The companies that own the dumpsters do not bill the owner until the dumpster is removed from the property and the material taken to the county dump. Pushkin said that Alfonso was given a warning citation for an overflowing dumpster. The dumpster has been removed from the property.

Pushkin stated that Acme Construction does not have any contract with the City of North Bay Village. Pushkin stated that the docks behind the owner houses are not considered to be seawalls by FEMA and are the owner's responsibility to repair, however there are approximately 9 drainage points on Treasure Island. FEMA considers these drains to be part of the City infrastructure, and had agreed to give money to repair the drains. The drains run through the property owner's seawalls and hurricane Wilma destroyed the various seawalls. Pushkin went to the various companies including Acme Construction, and offered them \$2,500.00 for each drain they repaired on the seawalls of the houses where they where rebuilding the seawalls and docks. To date Acme Construction has not billed the City of North Bay Village for the repair of any of these drains.

Pushkin who lives on Treasure Island has been aware of the dissention between Alfonso and his neighbors over the condition of his residence. Pushkin said that we

should interview the neighbor on the North side of Alfonso's residence. Pushkin said the neighbor has constantly complained about Alfonso since they moved to NBV on or about 1998.

Pushkin and Forte both stated that residents of NBV constantly complain about City Officials giving Alfonso preference because he is a City Councilman. Pushkin assured these investigators that this was not the case. Alfonso's house has been an eye sore for years before he was elected to the NBV Council.

On February 25, 2008, Investigator Art Skinner interviewed Maria Fernandez owner of Andrew Hauling Inc. at 1435 W 31st, Hialeah, FL 33012 (305) 822-3471. Fernandez answered the door and told me that this was her residence not the place of business which was located at 13050 NW 30th Ave., Opa Locka. The purpose of the interview was explained to Fernandez and she gave the following information:

Oscar Alfonso was a former neighbor who lived a few houses away.

Fernandez explained that the normal charge for the rental of dump containers was \$425.00. Sometimes the fee was paid in advance when the container was dropped off and other times the fee was collected when the container was picked up. Fernandez recalled that Alfonso may have rented a container one time for one month. I stated that the container I was talking about had remained at the NBV residence for at least six months. Fernandez said she would have to check her records. Fernandez went to another room and returned with a hand written ledger and started to look for the transactions.

Mrs. Fernandez called her son Julio Fernandez (cell 305-992-4082) and put him on the phone with me. Julio Fernandez said he recalled only two rentals by Alfonso that were paid by check by Alfonso's daughter Phyllis Alfonso when the container was dropped off. Julio Fernandez said he would have his mother look for the receipts.

Mrs. Fernandez showed me the following receipts: #14296 dated November 1, 2006 paid by check by Oscar Alfonso Jr. for \$425.00; #15016 dated March 2, 2007 paid by check by Phyllis Alfonso for \$425.00; #15585 paid by check for \$425.00.

On March 13, 2008, Investigator Art Skinner interviewed Roberto Vidal by telephone reminded him that he was supposed to send us copies of the customer files from the NBV projects (the Seawall repairs). Vidal said he was working in Key Largo. Vidal said he would contact the office and see that they faxed the files to our office.

Assistant City Manager Bob Pushkin was interviewed by telephone. Pushkin stated that the neighbor to the South of the Alfonso residence James Carter is the person who may have information on this matter. Pushkin stated that Roberto Vidal called the City Manager and asked what happened to check for the work he had completed on the city owned drainage tubes that ran through the Seawalls.

Pushkin stated that Vidal has never billed the City for the repairs done in the City owned Drainage tubes.

On March 11, 2008, Investigators Art Skinner, Breno Penichet, and Advocate Mike Murawski interviewed Acme Marine Construction Owner Roberto Vidal (305) 219-5839 in the COE Conference Room. Vidal gave the following information:

Vidal stated that after Hurricane Wilma in October 2006, he started getting telephone inquiries about repairs on seawalls on Treasure Island in North Bay Village (NBV). The first customer was Pete Hughes who lives on the same street as Alfonso. Vidal said before he started the work on Hughes' seawall Alfonso came to him and introduced himself as one of the city commissioners. A few days later Alfonso, Hughes and some other Treasure Island residences negotiated a better price for seawall repairs. Vidal believes the group was organized by Alfonso. Vidal stated his normal price for the repair was \$800- \$850 per linear foot. Vidal quoted the residents a price of \$600 to 650 per linear foot for the repair of the seawalls. Vidal stated that Alfonso visited his work crews every day to watch the seawall construction on all the jobs done by Vidal.

Vidal stated that he rebuilt the seawall for nine residents: (1) Pete Hughes, (2) Jesus Moreno, (3) Joe Geller (Mayor), (4) Juan Gaviria, (5) TVC Condominium, (6) Estele Zalkin, (7) David Fleischer, (8) Rachel Dugger, (9) Roger Barreal. Vidal also sub-contracted with Southeast Marine Construction, because they did not have equipment: Robert Trimka, Stanley Jonas, and Joshua Forman.

There are three customers that still have outstanding open accounts with Vidal: Rachel Dugger, who gave Vidal a check for \$20,000 that he could not cash. Alfonso who owes more than \$9,000. Mayor Joe Geller who owes over \$6,000.

On March 13, 2008, Investigator Art Skinner interviewed Merri Chitty at 1900 S Treasure Drive, North Bay Village, (305) 866-9915, about the seawall contract with Vidal. Chitty said the person who arranged and signed the contract with Vidal was Jerry Attardi General Contractor 7601 E. Treasure Dr., Suite 12, NBV, FL 33141 Cell (305) 915-1900 Office (305) 868-8087.

On March 19, 2008, Investigators Arthur D. Skinner, and Breno Penichet interviewed General Contractor Jerry Attardi in his office located at 7601 East Treasure Drive, Suite 12, North Bay Village, Florida 33141, (O) (305) 868-8087 (C) (305) 915-1900 E-mail [attardigc@aol.com](mailto:attardigc@aol.com). The purpose of the interview was explained to Attardi and he gave the following information:

Attardi stated that Acme Marine was his sub-contractor for the job at 1900 S Treasure Drive. Acme Marine was a name mentioned at the NBV Building Department. Negotiations for the price of the job were negotiated directly between Attardi's Contracting Company and Acme Marine. The job is taking an extra long length of time because Treasures on the Bay is having financial difficulties. As a result Acme Marine only performs work after they have been paid. Attardi was a little upset with Acme Marine because Treasures on the Bay paid Acme Marine directly and Attardi did not get his money.

On March 28, 2008, Investigators Art Skinner and Breno Penichet interviewed NBV Chief Building Official Paul Gioia in his office at the City Hall in North Bay Village. Gioia gave the following information;

Gioia has been with NBV as the Chief Building Official since late 2003. A review was requested of the complete building file for 7520 West Treasure Drive, NBV. Gioia gave the investigators the file for 7520 W Treasure Dr. and stated that the complete file was on micro fiche and was in the process of being printed. Gioia recalled that he was told that the construction on 7520 W. Treasure Dr. commenced sometime 1999. Gioia stated that the Miami Dade County Unsafe Structures Board ruled in favor of Alfonso at a hearing. Gioia stated that the Inspector who did the inspections on the 7520 W. Treasure Drive had been arrested for bribery by the Miami Beach Police the past week. A review of the file indicates that Gioia is incorrect. The first record of a building permit was 10/18/2000. There was a memorandum in the file from Gioia that requested the Unsafe Structures Board case be removed from the docket because the owner had resolved the issues by making the requested repairs on the structure. The file was incomplete.

On April 1, 2008, public records were requested from the City Clerk, for a copy of the approved plans showing all the construction being done of 7520 West Treasure Drive.

On June 4, 2008, Investigator's Art Skinner, and Breno Penichet interviewed North Bay Village Building Official Paul Gioia. Gioia was informed of the reason for the interview and gave the following information:

Gioia stated that he attended the hearing for the unsafe buildings committee in 2003 on the Alfonso matter. We told Gioia that this was not true. Gioia was told the file was reviewed by the investigators, and it contained a letter signed by Gioia. The letter stated that all the issues on the Alfonso residence had been resolved and the matter should be dismissed.

Gioia became extremely upset, again stating that he attended the hearing and that the Unsafe Structures Board ruled in favor of Mr. Alfonso. Gioia then made a telephone call to the Miami Dade County Code Enforcement Inspector Mr. Fernandez. He asked Fernandez, a series of questions about the hearing. Gioia hung up the phone, and asked "Did you hear that?" Gioia continued telling the investigators that Fernandez agreed completely with him. Gioia then started shouting that we had some nerve, questioning his word.

The Assistant City Manager Bob Pushkin came into the office to say that he and Gioia had an inspection appointment. Gioia asked Pushkin if he remembered the Alfonso Unsafe structures Board Hearing. Pushkin said yes, but he contradicted Gioia's story. Pushkin stated that the Unsafe Structures Board never notified them of the hearing, and the matter was dismissed.

On July 25, 2008, Investigator's Art Skinner, and Breno Penichet interviewed Pavel Paena in his office located at 5450 Stirling Road, Davie, FL 33014 (cell phone: 954-584-

6880). The purpose the interview was explained to Paena, he gave the following information:

Investigator Penichet showed Paena the plans for the Alfonso residence. Paena stated that the plans were his, however, there were additional pages missing. Paena said that the plans for the trusses where of the front entryway, and the garage. The other part of the plan was for the re-roof of the square structure on top of the building.

Paena was shown a photograph of the Alfonso residence. Paena stated that the structure in his plans was not the same structure as shown in the photograph. The structure in Paena plans was square and did not include the two dormer like additions as depicted in the photograph.

On September 17, 2008 COE Investigators A. Skinner and B. Penichet interviewed Mr. Carlos Lanza, concerning the above allegations.

Mr. Lanza advised that he was the Building official for the City of North Bay Village when, Mr. Oscar Alfonso applied to replace the roof on the property located at 7520 W. Treasure Dr. North Bay Village.

Mr. Lanza advised that he remembers that Mr. Alfonso presented plans for the construction he (Alfonso) planned to do on his property. Lanza recalls that the plans where rejected several times prior to the permit being issued.

Lanza was shown several forms but was only able to identify one (1) as the permit he signed and approved. A review of the document revealed the following;

Permit # 01-B00080

Application date 4/23/02

Issue date 8/11/02

Exterior Alteration / Reroof (it appears that this was crossed out)

Job Value 3,000

Owner builder.

Mr. Lanza was questioned as to the fact that the current building official Mr. Paul Gioia stated that the plans were lost when they were sent out to be copied; Mr. Lanza advised that the City never sent plans out to be copied or submitted to any other entity. Lanza advised that he ~~was-worked ing~~ part-time at North Bay Village and that at the time just as he was leaving the City there were some political problems with the Alfonso project because he (Alfonso) was running for office.

Mr. Lanza did confirm that Ms. Lori Mobley did work for him and that she did cite Mr. Alfonso on several occasions. Lanza advised that he did not have anything to do with referring the property to the Unsafe Structures Board.

On August 28, 2008 Mr. Paul Gioia provided a sworn statement to COE Investigators A. Skinner and B. Penichet along with Assistant Advocate Miriam Ramos. Gioia advised that he was the building official for the city of North Bay Village and that he was well acquainted with the facts surrounding the Alfonso permits or lack there off.

Mr. Gioia was questioned as to his role officially in the issuance of the permit or permits to the property in question and he was very evasive as to his answers, Gioia tried to blame the unsafe structures board for the lack of action and the state of disrepair the property is in now. Mr. Gioia was very quick to point out that Miami Dade County forced him to re issue the permit to Alfonso, but had a very hard time explaining why very little if any action was taken as a follow up and to this day inspections are passed despite the fact that no approved plans were found or provided by the City for the structure build by Alfonso on the roof of his residence. The only permit that COE Investigators were able to verify was for a re-roof that was never closed or properly documented.

Mr. Gioia did make a statement that since Alfonso was a commissioner what could he (Gioia) do his hands were basically tied. Finally when Gioia was questioned as to the new roof that had recently been finished, Gioia provided questionable information on the contractor and it was unclear if a proper inspection was conducted and if the permit had in fact been finalized. (Refer to sworn statement)

On August 29, 2008 COE Investigator B. Penichet interviewed Ms. Lori Mobley, via telephone concerning the above allegations.

Ms. Mobley advised that she was employed by NBV for over 3 years, her title was Code Enforcement Officer, as such she was in charge of following up complaints of violations of the Code as it pertained with illegal construction, abandoned vehicles, failure to maintain the property up to code and any other violations of life safety and health.

Ms. Mobley stated that she originally reported to Mr. James Cook Acting Public works Director, and then she was switched over to the building department and worked under Mr. Carlos Lanza. Ms. Mobley was questioned as to her involvement with the Alfonso property 7520 W. Treasure Dr. She (Mobley) stated that she cited the property several times for violations of the code as it pertained to not cutting the grass, junk in the yard, and abandoned vehicles without tags parked on the property. Ms. Mobley advised that most of the time after she issued the warning citation Mr. Alfonso would correct the violation after she would explain the procedure and time was given for the correction. Ms. Mobley further stated that she remembers that Mr. Alfonso did present plans to change the roof and build the addition, but she remembers that the plans were rejected several times before they were approved. Ms. Mobley advised that she remembers having a conversation with Mr. Lanza about the permit and telling him that it would not

is a wise idea to give him a permit given his record with violations and the way he (Alonso) handles them.

Ms. Mobley advised that she was told by Lanza that his hands were tied if Alfonso complied with all that was required then the permit had to be issued, but that's why there is the safe guard that the permit will expire if nothing is done within a certain time frame.

Ms. Mobley was also questioned as to if she was ever told not to take any enforcement action by any of her superiors. Ms. Mobley stated that one of the reasons she left was because Mr. Paul Gioia became building official and she had to work under him, she (Mobley) felt Mr. Gioia's management style did not suit her and she felt that he was keeping her from doing her job properly, so she decided to leave. Ms. Mobley advised that she was directed by Mr. Gioia not to take action on a violation she discovered at 1666 Kennedy causeway 3<sup>rd</sup> floor, there was remodeling taking place without any permits, the contractor turned out to be Mr. Jerry Atari, a friend of Mr. Gioia.

Ms. Mobley advised she was also told not to take enforcement action by Mayor Al Dorn and City Clerk Yvonne Hamilton. Ms. Mobley further stated that Mr. Gioia was not very interested in code enforcement.

Ms. Mobley also advised that when Mr. Gioia first started with the City he was very gung-ho in citing Mr. Alfonso's house he also stated that he would have Alfonso's house demolished. Ms. Mobley left the City in April 2003 and when she wanted to return Mr. Gioia did everything in his power not to hire her. Ms. Mobley is now employed in another City out side of Miami-Dade County.

On August 28, 2008 COE Investigators A. Skinner and B. Penichet interviewed Mr. Rafael Rodriguez, via telephone concerning the above allegations.

Mr. Rodriguez advised that he was the owner of a roofing company employed by Mr. Oscar Alfonso to replace the roof on the property located at 7520 W. Treasure Dr. North Bay Village.

Mr. Rodriguez advised that he was hired to place Spanish tile on the roof by Mr. Alfonso, he (Rodriguez) was very illusive with the details of how he was hired, he did state that he was charging for the labor \$1,600, he (Rodriguez) had received \$650.00 in cash and was owed the rest. Mr. Rodriguez also advised that the Materials were \$3,200. That was paid by Mr. Alfonso in the form of a check. Rodriguez would not elaborate further about the check or the transaction.

Mr. Rodriguez advised that he was told there was a permit for the roof but never saw it and did not see any one inspect the roof or was asked to be present for any inspection. COE Investigator Penichet asked Mr. Rodriguez if he was a licensed roofer and he (Rodriguez) advised he was. Mr. Rodriguez was requested to provide copies of the invoice along with the check and his license, but to this date no paper work has been turned over.

The corporation check revealed:  
American Dump Inc.



Active for profit

Rafael Rodriguez, P

534 SW 120 Ave Miami

It was also found that Mr. Rodriguez also was involved with four (4) other Florida corporations.

I think we should talk to Alfonso and review the copies of his permits if he has any ???  
Before we close this out, because if he refuses to talk to us it makes him look bad.....is  
there anything else we should put in here?????????

#### CONCLUSION:

This investigation did not prove that Alfonso violated the Miami-Dade County, Conflict of Interest and Code of Ethics Ordinance. However the investigation did reveal a continuous pattern of sloppy record keeping by the City of North Bay Village. Despite repeated requests by COE Investigators the City was unable to comply with Public Records request relating to the Alfonso residence. The [Citycity eClerk](#) claimed that the records were unavailable. The city did not comply with requests by COE Investigators to request copies of the plans by the homeowner Alfonso. The matter is being referred to the City of North Bay Village, and the Miami Dade County Unsafe Structures Board for appropriate action.