

OFFICE OF THE INDEPENDENT ADVOCATE  
REPORT OF INVESTIGATION

K #: 08-002

Date Opened: January 04, 2008

Date Closed: January 24, 2008

Name of investigator: Art Skinner and Breno Penichet

**Allegation:**

**This Investigation is predicated upon information received alleging misconduct by the Director of Community Development, City of Sunny Isles Beach.**

**In the complaint Ms. Gema Arencibia stated that Mr. Robert Solera allowed her neighbor Dr. Richard Mufson, who is a long time resident of the City to maintain a boat on a trailer parked on the grass next to his house in violation of City Code. Mrs. Arencibia provided documentation showing the progression of her complaint to the City and subsequent documentation she obtained via public records request. (All is attached)**

**INVESTIGATION:**

- COE Investigators Art Skinner, Breno Penichet along with Ms. Victoria Frigo Staff Attorney interviewed Mr. & Mrs. Arencibia regarding this matter. According to Arencibia she filed her complaint with the City Code Compliance on May 31 2007. The complaint was based on the fact that her neighbor Mr. Mufson had a boat parked on the grass next his house in violation of City Code.
- On June 8 2007 a letter was received from Mr. Robert Solera, Director Community Development Advising Arencibia a boat on a trailer is not considered a vehicle and that he was closing the case. Arencibia requested a legal opinion

from the City Attorney and he determined that a boat was considered a vehicle and the code case would be reopened and the boat would have to be removed “or” parked in a drive way.

- Arencibia advised that the boat was then parked in front of the house in the drive way which is also in violation. Code compliance issued a Warning Notice of Violation giving Mr. Mufson 10 days to correct the violation or face a \$250 fine.
- Arencibia advised that the City allowed Mufson plenty of time to resolve the violation and was dragging their feet so not to take action against him. Arencibia felt this was due to the fact that Mr. Mufson had lived in the area a long time and was a friend of the Mayor. Arencibia further stated that Mufson then built a slab without permits and moved the boat there next to his house. Again she complained and Mufson was again cited and ordered to build the slab to code and obtain a permit.
- Arencibia further advised that Mufson applied and was granted a permit by the City five (5) months after the original complaint. Arencibia claims the permit was issued improperly by the City and that it negated to include the proper set backs as required by Code. Arencibia also claims that the Code prohibits a structure to be built on the side and requires a 7 foot set back. Arencibia also claims that the City did not hold Mufson to the same standards as everyone else.
- COE Investigators Art Skinner, and Breno Penichet interviewed Mr. Robert Solera, Director Community Development City of Sunny Isles Beach. Mr. Solera advised that he was aware of Ms. Arencibia’s complaint and he felt it was unwarranted. Due to her complaint the City adapted a new ordinance and

subsequent the Code compliance Dept. went out and cited all the residents that had boats on trailers next to their properties and made them neither remove them or build a drive way similar to the one Mr. Mufton had built. Mr. Solera further stated that there is now a new ordinance waiting council approval that will require a fence across the front of the property in order to conceal the vehicle or water craft being stored in the rear. Mr. Solera stated the City adopted the Miami-Dade Code when it was incorporated, that code permits concrete slabs up to the property line due to the fact they are not considered permanent structures such as building witch require a minimum of (5) five feet set back. Mr. Solera advised that if we were to check the area around Ms. Arencibia's residence we would find other properties with concrete up to the property line.

- An area canvas was conducted in the area and it was found that many of the properties in fact have slabs up to the property line when they are built behind the building line the same as the Mufton property. Also it appeared that the Arencibia property also had the pool deck with in 3 to 5 feet from the property line.
- COE Investigators K. Rosario and B. Penichet met with Mr. Charles Danger, Director Miami-Dade Building Dept. Mr. Danger was questioned concerning the Code as it pertains to structures and he stated that concrete slab is not considered a structure and does not require 7 foot set back. Mr. Danger also stated that the City of Sunny Isles has the right to set its own Zoning regulations and can issue a permit as it sees fit as long as the permit conforms to City, County and State law. Mr. Danger advised that he spoke to Ms. Arencibia and that she raised some allegations against the officials of the City, Mr. Danger advised her to take the complaint to the State Attorney's Office.

**CONCLUSION:** Accordingly, it is recommended that the above-cited be closed. It does not appear that any Ordinance within our jurisdiction has been violated