

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

K #: 08 -- 052

Date Opened: June 2, 2008

Date Closed: August 26, 2008

Name of investigator: Breno Penichet and Arthur D. Skinner
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Allegation:

This matter was predicated upon the receipt of information from Mr. Eduardo Marin and Mrs. Olga Marin alleging that West Miami City Manager Yolanda Aguilar used her official position to influence the votes of home owners regarding Traffic Calmer Device (TCD).

Section 2-11.1 of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance. (g) 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 to be ordained or adopted by the Board of County Commissioners.

Investigation:

On June 17, 2008, Mr. Eduardo Marin and his wife Olga accompanied by Mr. Sandy Lleo came to COE offices in order to file a complaint against Ms. Yolanda Aguilar City Manager, City of West Miami.

- Investigators: Kennedy Rosario and Breno Penichet interviewed the Marin's and Mr. Lleo separately, and they provided the following information:

Eduardo Marin stated that the City of West Miami conducted an Engineering Traffic Study through an approved company that determined that in order to alleviate the traffic situation within certain sections of the City Traffic Calming Devices (TCD) would need to be installed. Mr. Marin advised that it was determined that one of those ~~TCD's~~ would be placed in front of his property 1450 SW 63rd Avenue. Mr. Marin and his wife were opposed to having a TCD in front of their home. ~~From the beginning he along with his wife were opposed to the plan,~~ Mr. Marin made his opinion known and took his opposition to County Commissioner R. Sosa. Commissioner Sosa's office turned the matter over to the City administration. Mr. Marin advised that since several of his ~~the~~ neighbors did not want the TCD either, he conducted an informal poll/a vote amongst his neighbors was taken and he (Marin) felt the vote was 19-11 against the installation of a TCD. ~~not in favor.~~

- According to Mr. Marin the City Manager Yolanda Aguilar at a recent commission meeting stated that a City arranged poll/vote vote was taken and the results were ~~was~~ 14-4 in favor of the TCD being placed in the area. Mr. Marin stated that Ms. Aguilar is abusing her authority by forcing the residents to accept her will. Mr. Marin and Mrs. Marin also advised that they attended a meeting on the first floor of the West Miami City Hall on 30 April, 2008. During the meeting Ms. Aguilar became belligerent and basically told the Marins and Mr. Lleo that the TCD would be installed because she wanted it that way.
- Mr. Sandy Lleo was also Interviewed by COE Investigators, ~~He (Lleo)~~ basically substantiated what Mr. & Mrs. Marin stated, he also advised that he has lived in

the City longer so he has a better understanding of the overall situation and originally he did vote in favor of the TCD but changed his mind when he realized it would cause problems when vehicles started to drive through them at night due to the head lights shining into the windows.

- Mr. Lleo also had other issues with the City stemming from a drainage project and ADA ramps on his [corner](#).~~Corner.~~
- Mr. Lleo also advised that he believed that some inconsistencies did occur when the City conducted [their](#) ~~the~~ vote especially the way the ballots were mailed and received. Mr. Lleo also felt that undue influence was used by several neighbors particularly by Joe Paz who sent out a letter urging the people to vote in favor of the TCD. Mr. Lleo also advised that he sent a letter of complaint to the Mayor and City Commissioners on May 28th 2008 regarding Ms. Aguilar's conduct, but no action has been taken as of this date.
- Other than the meeting at City Hall there were no other incidents between Ms. Aguilar and the complainants. The actual ballots were counted by the City Clerk and the use of the TCD was suggested by the Public Works Dept.
- COE Investigators A. Skinner and B. Penichet Spoke to Mr. Muhammed M. Hasan P.E. Chief, Traffic Engineering Division, Metro-Dade County regarding the City of West Miami TCD Study. Mr. Hasan advised that he was familiar with the project and that the City was following the established procedures as it pertained to all the permits and property owner approvals.

- COE Investigators A. Skinner and B. Penichet interviewed Ms. Yolanda Aguilar, City of West Miami, City Manager. Ms. Aguilar advised that she has lived in the City of West Miami for many years and does reside within the City limits. Ms. Aguilar also advised that she has a TCD in front of her property and in fact she was in favor but her husband was not, but she voted in favor of the TCD because it would be for the benefit of the whole area around her. Ms. ~~Aguilera-Aguilar~~ also advised that the study was commissioned as a result of all the transient traffic the City has been getting in the last 10 to 12 years. According to the Traffic section of Miami-Dade County the TCD's are very effective in slowing traffic and reducing accidents. Ms. ~~Aguilera-Aguilar~~ advised she became aware of the problems on SW 15th street when she was notified by the Office of Commissioner Sosa. ~~Immediately, immediately~~ she (~~Aguilera-Aguilar~~) tried to work with all the parties involved to be able to iron out the problems. The Marins were very difficult from the very beginning and no matter what suggestions were brought up none were accepted. According to Ms. ~~Aguilera-Aguilar~~ the day of the meeting on 30 April 2008 ~~their~~ ~~the~~ tone turned ~~ed~~ very hostile and threatening and she finally had to tell the persons present that according to the ballots the majority of the property owners wanted the TCD, and the project would proceed as planned. ~~Ms. Aguilera advised that since the City Commission has passed a resolution that allows the City to hold a election of all property owners in the 4 block square if there is no consensus among the 4 properties at the intersection.~~
- COE Investigator Penichet reviewed all the paper work obtained during the course of this investigation and it was found that the City of West Miami administration followed well established policy used by other Cities and Miami-

Dade County, also the ballots were sent out by the City clerk and received [a](#) and counted by the Clerk following standard procedures, Mr. Lleo also made a written complaint to the City administration alleging certain irregularities that should be addressed by the City Administration using their own standards and [policies](#). ~~Policies~~. COE Investigator Penichet also advised the Marins along with Mr. Lleo that they were well within their rights to pursue this matter through the Civil Courts, but that the COE would not be able to halt any action taken by the City of West Miami.

- All documents obtained during this probe are made part of the permanent file.

CONCLUSION: Accordingly, it is recommended that the above-cited be closed. It does not appear that any [ordinance](#) within our jurisdiction has been violated

Case closed.