



Miami-Dade Commission on Ethics & Public Trust

Report of Investigation

Investigator: Sylvia Batista

Case No.: K13-050	Case Name: Miami-Dade County Building Department	Date Opened: 04/04/13	Date Closed: 7/19/13
Complainant(s): Daniel Tormo Vice President Stone & Equipment 4681 SW 72 nd Ave. Miami, FL 33155	Subject(s): James Byers		

Allegation(s):

The COE received information from Daniel Tormo (Tormo) regarding an alleged ethics violation possibly carried out by James Byers (Byers), Chief of the Zoning and Permitting Division of the Department of Regulatory and Economic Resources f/k/a Miami-Dade County Building Department (RER).

Tormo informed that his business and several other businesses located at 4681 SW 72nd Avenue, Miami, have vigorously opposed the construction of a building adjacent to theirs. The building is allegedly being constructed without permits by a general contractor that was banned from performing work in the County. The building has an illegal parking ratio allowance and violates the easement rights of his and neighboring businesses. The construction of the building has created trespassing issues, and blocks emergency vehicle access. Tormo and the other business owners have filed a legal action against the developer, but RER refuses to acknowledge the problems.

Relevant Ordinances:

Conflict of Interest and Code of Ethics Ordinance Section 2-11.1(g) *Exploitation of official position prohibited.*

Investigation:

Interviews

04/09/13 – Daniel Tormo, Vice President, Stone & Equipment

4681 SW 72 Avenue, Miami 33155; (305) 665-0002; dtormo@stoneandequipment.com

Tormo came to the COE to provide additional information. Tormo’s business is located at 4681 S.W. 72nd Avenue, in a professional condo building. Tormo purchased two (2) units in the building which is where he operates his business. The building is under the name *4681 Office Condo Investment LLC*. The building is also known as *Bird Wingate*.

Tormo explained that *Bird Wingate* was remodeled some time ago by a general contractor named Alan Smith (Smith). Smith is also the general contractor of the new building that is going up next to *Bird Wingate*. Tormo said that Smith built the parking lot on land that did not belong to him and promised parking spaces to buyers which he did not have a right to.

Tormo strongly disapproves of the new structure and claims that it is illegal because it is in violation of his building’s easement rights and of the parking ratio allowance. Tormo has filed two (2) lawsuits to stop the construction of the building, but construction continues unabated.

Tormo said that Smith, who is a disbarred attorney, has responded to Tormo’s complaints by telling him that he has great contacts in the RER, something which appears to be true. Smith has demonstrated a great ability to maneuver the system to his advantage. Tormo advised that one of Smith’s tricks is mixing permits with folio numbers that do not exist. Tormo advised that he and his attorney have repeatedly tried to meet with Smith to no avail.

Tormo advised that his numerous requests for copies of the plans and permits for the building have gone unanswered. Tormo has received no explanation from the contact at RER, Byers, who is the Chief of Zoning and Permitting Division.

Document/Audio/Video Review:

E-mail string between James Gueits (Gueits), counsel for Tormo, and Byers dated 02/20/13 to 02/21/13 discussing the right to the easement. Pursuant to the e-mails, Byers agreed to look at the plans again to confirm that the warehouse and parking area are not encroaching onto the easement. A 02/21/13 reply from Gueits to Byers advises that the requested meetings to discuss Smith’s development plans are always postponed, and advises that the developer’s waiver of plat reflects the new building may encroach over onto a 60 ft. setback on *Bird*

Wingate's side of the property. In the e-mail, Gueits advises that he represents *Bird Wingate* Condominium Association, Inc. and forwards copies of the easement records.

E-mail from Tormo to Byers dated 04/03/13 expressing dismay as to how the County can approve the construction of the building under such circumstances.

E-mail from Tormo to Kelly Bennett of MD Fire Rescue Department attaching *YouTube* videos that demonstrate the problems with allowing the subject building to be constructed as planned. The videos show the difficulty created for tractor trailers when approaching the bays at Bird Wingate due to the new construction.

Action taken:

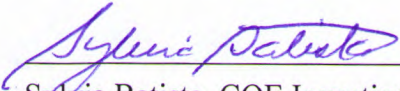
The COE contacted Byers who promptly produced copies of the waiver of plat, easement, and proposed site plan with parking lot configuration and provided Tormo with same. Byers advised that there have been no permits issued on this project.

The COE contacted Maria Llorente of the Permitting and Inspection Center who advised that a building permit was pulled in connection with the new building.

Tormo advised this investigator that Byers had been more receptive to their complaints and has sat down with them to resolve the issues of the new construction. Tormo advised that construction has been delayed for the time being while the issues with the project are attended to.

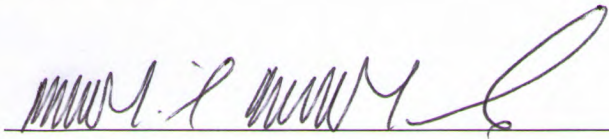
Conclusion(s):

Complainant, Tormo, came to the COE to complain about what he perceived as an inability to obtain certain records from the RER. Tormo had already undertaken appropriate legal action in Court to deal with the numerous other issues involved in his dispute. Upon inquiry by the COE, the RER became much more cooperative with Tormo and Tormo has subsequently expressed his satisfaction with our intervention. There does not seem to be any ethics violations, however, to pursue as Tormo's lawsuit is addressing all of his major concerns. Accordingly, this matter should be closed with no further action.

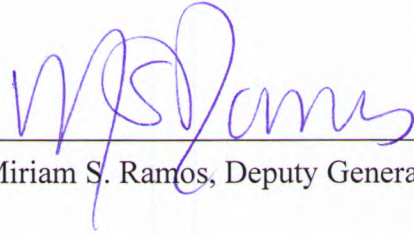


Sylvia Batista, COE Investigator

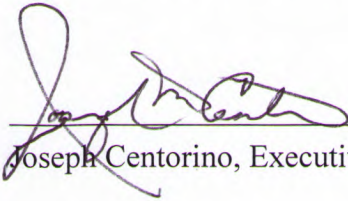
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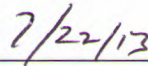
Michael Murawski, Advocate



Miriam S. Ramos, Deputy General Counsel



Joseph Centorino, Executive Director



Date