



Miami-Dade Commission on Ethics & Public Trust
Investigative Report

Investigators: Larry Lebowitz

Case: K 16-027	Case Name: Leonard/Bay Harbor Islands	Date Open: CASE	
Complainant(s): Self-generated (COE)	Subject(s): Mayor Jordan Leonard	May 17, 2016 CLOSED	Date: <u>11/22/2016</u>

Allegation(s):

Whether an elected Mayor exploited his official position by allegedly “retaliating” against a citizen activist, by orchestrating an “anonymous” Code Compliance inspection at a building where the activist owns a unit less than 24 hours after a highly charged personal meeting at which the activist announced his intention to run for office against the Mayor.

Applicable Law:

Miami-Dade County Code, Sec. 2-11.1 Conflict of Interest and Code of Ethics Ordinance
(g) *Exploitation of official position prohibited.* No elected official shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself 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:

Interviews

Initial complaint received from Victor Maya,
1155 103rd St., Bay Harbor Islands, FL
Phone conversation: May 13, 2016

Mr. Maya (“Maya”) called the main COE number in the late afternoon of May 13, asking, generally, about what constitutes retaliatory, unethical behavior under the Commission’s

jurisdiction.

Maya said he has lived in Bay Harbor Islands for approximately three years, during which time he has become quite active at town council and planning and zoning and county historic preservation board meetings due to development pressures that are impacting the owners of Mid-Century Modern ["MiMo"] apartment homes on the town's eastern island.

By his own admission, Maya is a vocal critic of the town administration – particularly Bay Harbor Islands Town Manager Ronald Wasson ("Wasson"), Mayor Jordan Leonard ("Leonard") and the elected council members. In recent months, he's taken very public positions against an extended retirement benefits pension package the council awarded to Wasson.

After a series of verbal confrontations with Wasson that occurred after town council meetings, Maya said he asked to speak with the mayor because the manager would not consent to a private meeting. The appointment was set for Tuesday, May 10, 2016, in the early afternoon. Maya said they met in Wasson's office at Town Hall, and the manager was present.

Maya, who is a retired lawyer and former human resources director, described the meeting as heated and adversarial. Several topics were covered, including the manager's retirement compensation, bridge-damage repairs and a proposed land-swap near the community center. At some point toward the end of the half-hour meeting, Maya said he threatened to run for mayor against Leonard when his current term expires in 2018.¹ The meeting ended abruptly, he said, because the mayor and manager had another scheduled meeting to attend.

At 9 AM the next day, a town Code Compliance officer posted a courtesy violation notice on the front gate of the Bay Harbor Club cooperative where Maya lives.² The notice gave the co-op 30 days to address extensive rust on exterior railings and peeling paint on exterior walls.

Maya believes the timing of the Code Compliance visit was no accident and that the issuance of the potential violation was, at minimum, trying to send him a message about challenging the town leaders' authority. At worst, he said, it was a retaliatory act that could potentially cost Maya and the other shareholders of the 24-unit co-op tens of thousands of dollars to rectify. Maya said initial estimates to replace the rusting 1950s era railings would cost approximately \$156,000 plus another \$30,000 to re-paint the building.³

After discussing Maya's initial call, and inspecting some subsequent documents Maya forwarded to this Investigator via email, the Advocate agreed to open an investigation.

¹ Technically, Leonard is one of seven council members, all elected at-large, to serve staggered four-year terms. Under the town charter, the titular mayor and vice mayor, are selected by a majority of the council at an organizational meeting in April.

² The Bay Harbor Club is interchangeably known as "The Dexter building" because the cable TV program featuring a vigilante serial-killer coroner was shot, in part, there. It is also known, especially among historic preservationists, as "The Birdcage building" because of an ornate, 3-story, spiraling exterior staircase resembling a birdcage. The Bay Harbor Club and the adjacent Bay Harbor Continental, both designed by renowned architect Charles McKirahan, have been the focus of pitched fights between redevelopment interests and Miami-Dade preservationists.

³ Maya owns four of the 90 shares of the corporation that controls the co-operative. The corporation leases the land from the descendants of Bay Harbor Islands founder Shephard Broad. Approximately 39 years remain on the original 99-year land lease but the Broad family has indicated possibly ending the lease early, and selling the property for larger-scale redevelopment. These lease issues have become enmeshed with the county historic preservation fights in Bay Harbor Islands.

Evelyn Merizalde, Code Compliance Officer

Town of Bay Harbor Islands, FL

Sworn statement: May 26, 2016

Merizalde was interviewed by this Investigator and Advocate Michael Murawski in a second-floor conference room at BHI Town Hall. The sworn statement was digitally recorded with her consent.

Merizalde could not pinpoint when, exactly, she was assigned by her supervisor, Code Compliance Director Marlene Siegel (“Siegel”), to check out a complaint that had been passed along by Mayor Leonard regarding deteriorating conditions at the Birdcage building.

Because the assignment came directly from Siegel, Merizalde said it was probably relayed verbally. She checked her email and didn’t discover any additional illuminating notes. The town creates a regular report summarizing all Code Compliance investigations that result in warnings or violations. The report, however, is compiled after the fact. There is no log, or email trail, memorializing the source of incoming complaints.

Merizalde provided copies of her reports, including photographs taken at 1155 103rd Street on the morning of May 11, 2016, showing the peeling paint and rusting railings, and a copy of the posted violation notice.

She said the warning notices, giving potential violators 30 days to rectify issues, are fairly typical. The town, she said, isn’t looking to punish potential violators as much as it wants to work with them to bring them into compliance and maintain high standards.

A complete copy of Merizalde’s statement was burned to a disc and included in the file.

Marlene Siegel, Code Compliance Director (and Town Clerk)

Town of Bay Harbor Islands, FL

Sworn statement: May 26, 2016

Siegel was interviewed by this Investigator and Advocate Michael Murawski in a second-floor conference room at BHI Town Hall. The sworn statement was digitally recorded with her consent.

Siegel is a veteran town employee who holds two jobs – Town Clerk since 2002 and Code Compliance Director since 2006 or 2007. **In an email she sent to this Investigator prior to the interview, Siegel acknowledged that she had spoken with Code Compliance Officer Merizalde about the rust and paint issues at the Birdcage on May 10 – the day of Maya’s confrontation with Manager Wasson and Mayor Leonard at Town Hall: “I had spoken to the code officer the day before regarding this complaint, but she didn’t go out until the morning.”**

In the interview, Siegel said she remembers the May 10 meeting between Maya, Wasson and Leonard in the manager’s office because the door was left open and at one point she was asked to come in and answer a question.

Siegel vaguely recalled the initial conversation she had with the mayor regarding conditions at the Birdcage building that resulted in Merizalde inspecting the property and issuing the violation warning notice. She believes the initial conversation may have occurred sometime during the week of May 2. But she could not provide a specific record of the conversation or

pinpoint the date.

The original call, she said, mostly likely came from the Mayor's cell phone to a main trunk line at Town Hall, and then internally transferred to Siegel's office. Siegel does not use a town-issued cell phone and does not use her personal cell phone for town business. [This also means that it would be highly unlikely to pinpoint the date the Mayor first discussed the conditions at the Birdcage building with phone records because he calls Town Hall on a regular basis -- and not just to Siegel]

According to Siegel, the mayor told her the complaint about the conditions at the Birdcage building came from "a lady that lived next door, on the Island Pointe condo ... I believe he said she was the president of that condo, but I can't swear to that because I don't remember that detail. ***He said she wanted to stay anonymous.***"⁴

A complete copy of Siegel's statement was burned to a disc and included in the file.

Melissa Edelman

President, Island Pointe at Bay Harbor Condominium Association, Inc.

Sworn statement: May 27, 2016

Following the interview with Code Compliance Director Siegel, this Investigator located Melissa Edelman, a Realtor and president of the Island Pointe condo association. The sworn statement was digitally recorded with her consent.

Edelman said she was elected president of the Island Pointe association in December 2015. She said she knows Mayor Leonard, primarily through a friend in the building. Edelman and the friend occasionally run into the mayor while walking their dogs. She said the Mayor used to live in the neighboring high rise to the east, [Coral Sea Towers, 10300 W. Bay Harbor Drive]. Edelman said she had not spoken with Leonard since mid-April. She was able to pinpoint the date because her last encounter occurred just before she took a trip to London in mid-April.

In response to questions, Edelman specifically said she had never spoken with the mayor about conditions at the Birdcage building, and had never filed a formal complaint regarding conditions at the neighboring co-op.

Edelman was, however, aware that some of her neighbors, especially those with eastern-exposure units facing the Birdcage building, have expressed continuing concerns about deteriorating conditions next door. Those residents, she said, worry that the older building may follow a similar pattern to other redevelopment targets on the island: The co-op would let maintenance slip, declare a financial hardship rather than make necessary repairs and then sell out to developers who would subsequently knock down the existing two-story building and replace it with a much larger, and expensive, 8-to-12-story structure that would potentially destroy, or seriously alter, waterfront views -- and property values -- for the eastern-facing Island Pointe units.

After the interview concluded, Edelman mentioned that another officer of the condo association, Patricia "Trish" Lawrence ("Lawrence"), who was elected secretary in the same

⁴ Siegel statement, at 7:26

late 2015 election, might have talked about the Birdcage issues with the mayor. She provided Lawrence's contact information.

A complete copy of Edelman's statement was burned to a disc and included in the file.

Ronald Wasson, Manager, Town of Bay Harbor Islands, FL

Sworn Statement: June 3, 2016

Wasson was voluntarily interviewed by this Investigator and Advocate Michael Murawski in the COE conference room at 19 W. Flagler St., Suite 820. The sworn statement was digitally recorded with his consent.

Wasson's version of events largely confirms the versions provided later, under oath, by witness Victor Maya and Mayor Jordan Leonard. The manager, who is a retired New York City Police officer, said Maya is a persistent – and occasionally intimidating - critic of the town leaders, and the Manager in particular. Wasson said Maya has been critical of numerous town decisions, but focused, in recent weeks, on the Manager's recently improved pay and pension benefits package.

Wasson confirmed the events that occurred during and after public meetings in the weeks leading up to the May 10 private meeting in his office at Town Hall with the Mayor and Maya. The Manager said he attended the meeting at the Mayor's request and provided his own office because none of the elected council members have their own offices at Town Hall. The Manager further testified he was unaware that Code Compliance had been sent to Maya's building early the next morning – on May 11, the day after the confrontational meeting at Town Hall where Maya threatened to run for office against Mayor Leonard.

Wasson testified that he first learned of the inspection and the courtesy violation notice posted at the Birdcage building when he received an angry email from Dale Northrup ("Northrup"), president of the Bay Harbor Club co-op on May 16. The Northrup email was also sent to the Mayor, all of Town Council, Code Compliance Director/Clerk Siegel and Merizalde. Wasson stated he was unaware the Mayor had passed along a reference to the potential code violations at the Birdcage building to Siegel prior to Northrup's email.

[During the interview, the Manager said he responded to Northrup and would provide copies of his emails. Afterward, when he forwarded those copies, he said he found it in a draft folder and could find no evidence that he actually sent a response to Northrup]

A complete copy of Wasson's statement was burned to a disc and included in the file.

Victor Maya.

Sworn Statement: June 3, 2016

Maya was asked to provide a sworn statement. He was interviewed by this Investigator, with Advocate Michael Murawski, in the COE conference room at 19 W. Flagler St., Suite 820. The sworn statement was digitally recorded with his consent. The statement is broken into two files.

Much of what Maya discussed in his initial phone interview on May 13, mentioned above,

was repeated under oath and on tape, but in greater detail.

In late April 2016, Maya said he spoke at a Town Council meeting where the Manager's performance evaluation and compensation package, including vesting in a town-financed pension package, were under review. After the meeting, Maya said he was asking hard questions of Town Finance Director Alan Short on a number of issues, including the fiscal impact of including Wasson in the Town's pension plan for the first time.⁵

At some point, Wasson stopped the conversation, and asked Maya to make an appointment to talk with him directly. When Maya attempted to nail down a date with the Manager's secretary, he wound up making an earlier appointment instead for May 10 with Mayor Leonard. Maya testified that he also criticized the Manager, the Mayor and others at a subsequent Town Council meeting on May 9 – the day before his scheduled 1 PM face-to-face meeting with the Mayor.

On May 10, Maya and Leonard met in Wasson's office at Town Hall. Wasson was asked to sit in on the meeting by the Mayor and Maya said he didn't object. Wasson only had a half-hour allotted and indicated he had another meeting starting at 1:30 PM. They left the door open, Maya said, so that others could witness if tensions escalated.

Maya said that he had been thinking about running for office, specifically against Leonard, if Maya was still living in Bay Harbor Islands in 2018. But he said he hadn't shared his thoughts with anyone until the confrontational Town Hall meeting: "At some point, you figure, if you can't influence from the outside, you might as well try to influence from the inside. So, I've been thinking about it. But I really hadn't... I think right there, I was getting so angry with the whole process..."

According to Maya, Leonard abruptly ended the meeting: "'If you came here to have this meeting to tell me you're going to run, we're done.' So he got up to leave. And the Manager said, 'This is ridiculous, you as mayor.' And that was the end of the meeting."

Maya said neither the Mayor nor the Manager made any mention of the peeling paint or rusting railings at his co-op during the May 10 meeting at Town Hall. Neither mentioned anonymous neighborhood complaints about the deteriorating conditions^{6 7}

The next day, Maya said he left his apartment around 8:30 AM to work out at the gym and then visit his elderly parents who live nearby. When he returned around 2:30 PM he discovered the violation courtesy notice taped to the front gate.

His initial reaction: "'Wow, what have I done? The people in my building are going to be so pissed off at me.' Because all of a sudden now I've basically triggered a whole lot of action taking place in the building just because I pissed off the Mayor and the Town Manager. That was my initial reaction. I was feeling really, really bad. I was like, 'This really is horrible'."

⁵ Many of the details Victor Maya related regarding the confrontation with Alan Short, and at the May 9 Council meeting, and at the May 10 private meeting at Town Hall, are consistent with the June 3, 2016 sworn statement provided by Wasson. The manager's pension was part of a special council meeting evaluating his performance on May 5, 2016

⁶ See witness Patricia Lawrence below; according to her testimony, she made an offhand remark to Mayor Leonard about the conditions at the Birdcage in mid-April

⁷ See witness Marlene Siegel above; according to her testimony, Mayor Leonard told her about the peeling paint and rust at the Birdcage perhaps as early as May 2, and that the complaint came from an official of the neighboring Island Pointe condo who, according to Leonard, wished to remain anonymous

Maya was asked:

Q: "Do you think they were trying to send you a message?"

A: "Yeah. To back off. Otherwise we're going to cause you financial difficulty. And we're going to get all of your neighbors upset with you."

Maya said he met later that day with Northrup and Juan Llarena, president and secretary, respectively, of the co-op association. Maya is the treasurer. Northrup subsequently sent emails to several town officials, including Wasson, Leonard and Siegel, complaining about the retaliatory nature of the inspection.⁸ Maya said they also contacted Morris Broad, the politically influential scion who controlled the land-lease at the Birdcage, to see if he was aware of, or behind, the town's activity given Broad's interest in redeveloping the property.⁹

The courtesy notice, Maya said, "was just a reaction of them getting really upset with me, my comments during the town manager's evaluation meeting, during the subsequent town council meeting, and then at that meeting ... in the (Town Manager's) office, I think that all of that led them to say, 'Let's teach him a lesson. Let's not make it an actual violation; just make it a courtesy notice'."

A complete copy of Maya's statement will be burned to a disc and included in the file.

Patricia B. "Trish" Lawrence, secretary, Island Pointe Condominium Association
Town of Bay Harbor Islands, FL

Sworn statement June 10, 2016

Lawrence was initially contacted by this Investigator on June 1. She provided some preliminary information and agreed to make a voluntary statement at a later date. She was re-contacted on June 10. The interview was conducted at 200 S. Biscayne Blvd., 25th Floor, Miami, in a conference room at the DLA Piper law firm where she works as the Operations Manager. There are two digital files. The recorder was turned off for a short break so she could retrieve and print an email that was discussed in the first part of the interview. The recorder was turned on again when she returned.

Lawrence lives in the Island Pointe condo. The building sits directly to the west of the Bay Harbor Club. She has lived there three years, and became secretary of the condo board in January.

She said she first became acquainted with Leonard a couple of years ago when she was unhappy with some of the large-scale construction and renovation that is occurring on the northern tip of the eastern island. She specifically mentioned complaints about the Bay Harbor Continental (1135 103rd St.) just to the east of the Dexter building. She has never met the Mayor in person, only spoken with him by phone. They have kept in touch on a variety of issues affecting the area.

⁸ A copy of the email can be found in the DOCUMENTS section below.

⁹ Broad died Sept. 1, 2016

Lawrence said she contacted the mayor in mid-April, initially looking for a recommendation for legal counsel to assist the condo board. They covered several other issues on April 14 – a proposed dog-walk, bicycling and pedestrian promenade that would create a single one-way lane for motor vehicle traffic; the bridge-repair project and residents failing to clean up after defecating pet dogs. During this conversation, she said she made an aside about conditions at the neighboring Bay Harbor Club:

“So when we were talking about this, I also said to him, ‘Gosh, that building – the Dexter building – must be sold because they have stopped maintaining it.’ He asked specifically what I was talking about. I said, ‘There’s rust on all of the railways that are on each floor ... as well as the stairwell... it’s all rusting ... Paint is chipping off the side of the building ... and also they’re not maintaining the trees and bushes that are adjacent to our property.’”¹⁰

Lawrence was questioned as follows:

Q: Just so I’m clear on the context, this sort of came up as an aside after you talked about the dog walk promenade ...

A: Correct. I just asked him has it been sold because he and I had spoken previously on several occasions about things going on on the island. I don’t think he shares my same feeling about development, but...

Q: But that issue of the non-maintenance or the declining maintenance ... is one of those issues that’s occurred with other buildings that were eventually taken out of historic preservation status and eventually knocked down....

A: That is correct... Right, you started seeing the people weren’t parking there anymore and then the building just started deteriorating. So, I had assumed that that’s what was going on next door. He did not know.

Q: You didn’t sit there and say anything (like), ‘It’s a real eyesore’ or code violation or anything... It was just merely in the context of ... the development pressure...

*A: I did not... It was casual conversation... And curiosity because that property really affects many people’s views in our building.*¹¹

Lawrence said the future of the Bay Harbor Club has been a huge topic of conversation at Island Pointe for several years given the ongoing development pressures in the island town. At 11 stories and 160 units, Island Pointe is a much larger property than the Bay Harbor Club.

As Lawrence explained, if the Bay Harbor Club is sold and demolished, it will likely be replaced by a much larger building. In that event, the replacement would block and dramatically diminish the waterfront views – and likely the property values -- for a large number of owners with units facing east.

So, Lawrence said, when she saw the rust and deterioration of the property at the Bay Harbor Club, she assumed that the neighboring building must have been sold, prior to her April 14 conversation with the Mayor.

¹⁰ Lawrence interview from 5:45 to 6:21

¹¹ Lawrence interview, from 6:21 to 7:27

Lawrence provided a copy of an April 14 email she sent to the Mayor, which initiated the short conversation. She was asked if she ever received anything back from the Mayor indicating that the town would be addressing her complaints regarding the deteriorating conditions at the Bay Harbor Club:

Q. Did you get anything back from [the Mayor] saying, 'We'll take care of it' or 'We're going to send Code Enforcement out' or anything else?

A. *"Oh, no, no, no, no, no. Because I didn't ask him to pursue it. I just mentioned to him, 'Is this [the sale and demolition of the Dexter building] happening?'"*¹²

Lawrence testified that she spoke with the Mayor about "two or three weeks prior" to her June 10 interview - and just prior to her initial contact with this Investigator on June 1. In the June 1 contact, the mayor let Lawrence know that this matter was being investigated and that she might be contacted. The Mayor called her back on June 10 - a few hours before this sworn statement -- and told her that this Investigator would be contacting her.¹³

A complete copy of Lawrence's statement was burned to a disc and included in the file

Jordan Leonard, Mayor,
Town of Bay Harbor Islands, FL
Sworn statement: June 20, 2016

Mayor Leonard was interviewed in the second floor conference room at Town Hall. The sworn statement was digitally recorded with his consent. Also present: Advocate Michael Murawski and Assistant Town Attorney Frank Simone.

The Mayor confirmed the meeting that was sought by Victor Maya. He remembered it occurring around May 10. It was held in Manager Wasson's office because the Mayor and council members do not have their own offices inside Town Hall. The conversation, he said, covered a lot of terrain: bridge repairs, sale of a parcel of land near the library/community center, Town Manager Wasson's new contract and benefits package, and other issues. While Mayor Leonard scheduled and set the meeting, he said most of Maya's attention - and ire -- was directed at Wasson.

Mayor Leonard referred to Maya's behavior as "physically disturbing - at the end of the meeting he was physically shaking. His cheeks were vibrating. At one point I thought that he actually was going to do something to the Manager."¹⁴

The Mayor grew up in BHI. As recently as two years ago, he lived in Coral Sea Towers, a condo adjacent to Island Pointe and two doors down from the Birdcage building. Leonard said he lived in Coral Sea Towers for 12 years. The Mayor repeatedly testified that the issuance of the violation courtesy notice the day after his adversarial meeting with Maya was "a coincidence."

¹² Ibid, from 8:54 to 9:04

¹³ In the first instance, it was shortly after town employees Merizalde and Siegel had been interviewed, and Wasson was scheduled for an interview. In the second instance, it was shortly after Leonard confirmed his own interview with this Investigator by phone and via a follow-up email calendar appointment confirmation sent at 12:04 PM on June 10. There is no indication that he tried to influence her testimony beyond telling her to tell the truth.

¹⁴ Leonard interview, at 13:14

The Mayor said he participated in a follow-up call with Dale Northrup, president of the Bay Harbor Club co-op board, to an email complaint about the notice being served directly after Maya's meeting with Wasson and Leonard.

The Mayor said he had nothing to do with the issuance of the courtesy notice or the inspection: ***“There was a person that made a complaint, the complaint was made long before we ever had that meeting, long before I actually even spoke to Mr. Maya about even having a meeting. And that person made a legitimate complaint. And I told our Clerk [and Code Enforcement Director Marlene Siegel], and then I followed up with a phone call later, and that was pretty much the last I recall.”***¹⁵

The Mayor could not recall when he first mentioned the complaints about conditions at the Birdcage to Siegel, nor could he detail when he made the follow-up phone call.¹⁶ The Mayor said he knew Lawrence was an officer of the Island Pointe Condo Association, the building directly west of the Bay Harbor Club, and thought she might have been the president.¹⁷

The Mayor had no notes from his mid-April conversation with Lawrence but believes he would have passed it along verbally, over the phone, to Siegel as an anonymous complaint within a day or two (roughly April 16-17). Leonard said when a resident makes a complaint but wants to remain anonymous, he just calls up Siegel and passes along the details:

“My thing is this: If someone makes a complaint, I pass on the complaint. It’s real simple. That’s where my job begins and that’s where it ends.”¹⁸

He remembered an email Lawrence had sent him on an unrelated matter [looking for legal representation for her condo association]. He remembers her complaint about the Bay Harbor Club conditions came up during that conversation about other issues facing the town and that part of the island.

Regarding his conversation with Lawrence: ***“She’s the one that brought it up. I didn’t bring it up. I told her that I would go take a look and that I would actually talk to Code Enforcement about it. And that was pretty much it. I don’t recall it being a very long conversation.”***¹⁹

Regarding Lawrence’s concerns about conditions at the Dexter building: “My understanding was she didn’t like the way that it ... it wasn’t being kept up or maintained. And a lot of people in this town maintain their properties. It’s a very important thing. So, I’m not surprised that someone would make a complaint ... And when I actually saw what she was talking about and saw the building, it makes a lot of sense. If anything, I’m surprised that some of the people that do make more complaints didn’t mention it earlier.”²⁰

Given his earlier testimony that he probably passed along the original complaint a few days after talking with Lawrence on April 14 or 15, and since the inspection didn’t occur until May

¹⁵ Ibid, between 19:25 and 19:47

¹⁶ See Conclusions/Analysis section regarding the inability to trace those calls and with contradictions between the Mayor’s testimony and testimony of Trish Lawrence, the person to whom he attributed the complaints

¹⁷This is corroborated by the testimony of Siegel, who believed that the Mayor was passing on the complaint from “the president” of the Island Pointe association; Lawrence is actually the association secretary

¹⁸ Ibid between 32:02 and 32:11

¹⁹ Leonard interview, at approximately 24:13

²⁰ Ibid, between 25:39 and 26:07

10, the Mayor was asked if he ever followed up with Code Director Siegel after April 18. He could not recall the time-frame but was certain that he mentioned it to Siegel a second time, again over the phone. The Birdcage complaint wasn't the impetus for the call, he said, adding that he usually talks with Siegel about a couple of items at a time.

The Mayor repeatedly stated that the timing of the May 11 warning notice was nothing more than a coincidence given the adversarial meeting with Maya the day before at Town Hall.

This Investigator specifically asked the mayor if he spoke with Siegel about the status of the Bay Harbor Club complaint after his meeting with Maya on May 10. His response:

A: I don't recall.

Q: So you don't recall whether you spoke with Ms. Siegel after your meeting with Mr. Maya but before she sent Ms. Merizalde out?

A: I don't recall.

Q: OK

*A: I. I... you know... I speak to the Clerk about so many different issues I don't remember every single thing that I mention ... it's not like that.*²¹

Later in the interview, the Mayor said: "To be quite honest, I'm a little surprised this is something you're even investigating."

Q: You would agree or disagree with us that it's an unusual coincidence?

A: I can understand it's a coincidence. And I understand why someone, like the person in the building who sent the email, why he would be frustrated. As far as hearing about a meeting with the manager and the mayor and the next day ... That I understand. But, knowing the town and knowing how the town operates, it's... I am surprised. 'Cause the one thing I would not expect, the one thing that I would really ... doesn't even come across my mind... is any type of retaliatory action.'

The Mayor said he had no idea how much money it would cost the co-op to scrape the railings and make the repairs. But he added that Northrup assured him the co-op had the resources to pay for it. The Code Compliance process, he said, is about as non-political as possible.

In response to a question from Advocate Murawski, the Mayor acknowledged that Maya made reference to running for office against him toward the end of the May 10 meeting: "He did, at the end.... It was odd, actually... He made a comment, which I didn't understand at the time, which precedes what he said: 'If I'm still living here in two years' – which is not the term you usually say when you say you're going to run for office – 'If I'm still living here in two years, I'm gonna run against you for mayor.' And then he made some sort of emphasis on mayor. In other words, not running for council, but running for mayor."²²

After the formal interview concluded, Mayor Leonard said he thought Maya and Manager

²¹ Leonard interview at 37:12

²² See Footnote 1 re: current charter form of government; the mayor is selected by a majority of the Council, not the voters

Wasson might actually come to blows: "It looked like that. That's how off it was."

A complete copy of Leonard's statement was burned to a disc and included in the file.

Victor Maya, 1155 103rd Street, Apt. 1C, Bay Harbor Islands, FL

Follow-up phone conversation: Oct. 11, 2016

The town never followed up on the original warning complaint. The co-op paid approximately \$1,500 for a professional to paint the rails and patch the chipping exterior paint. The co-op is currently soliciting estimates from contractors to change out all of the rusting exterior railings and has money set aside for the work.

The county Historic Preservation board recently voted to preserve the "birdcage" stairwell but deemed the rest of the building was not worthy of preservation status. Any potential sale has been complicated by the death, in September, of land-owner Morris Broad. The co-op believes it will take some time for Broad's estate to figure out what it wants to do with his extensive holdings, including the land-lease at the Dexter building.

Maya said, for the most part, he has stayed away from town meetings and avoided further confrontations with Manager Wasson or Mayor Leonard. Maya is unsure if he is going to follow through on his original threat to run against Mayor Leonard in 2018. "I got so turned off by everything," he said.

Document/Audio/Video Review

Emails forwarded by Victor Maya on May 17, 2016.

Email sent on May 23, 2016 to this Investigator by Town Clerk/Code Compliance Director Marlene Siegel, prior to her May 27 interview. The message includes additional context about the inspection conducted on May 11, 2016 at 1155 103rd St (aka "the Birdcage", Bay Harbor Club or the "Dexter" building). The inspection report and a few of the Officer's photos are attached.

The attachments also include a chain of emails originating with Dale Northrup, president of the Bay Harbor Club co-op association, which was widely distributed to elected and appointed town officials. In the email, sent at 1:56 PM on Monday, May 16, Northrup accused the town of retaliating against Maya – who is the co-op treasurer – after his confrontational meeting at Town Hall on May 10 with Manager Wasson and Mayor Leonard: *"Clearly, even to an untrained eye, even to one not jaded by the cozy politics of a small island community like ourselves, this notice is in direct response to Citizen Maya's meeting, and is a result of the nasty tone with which it ended – reportedly with Mr. Maya confessing his intent to run against Mayor Leonard in 2018 because of his disdain for Leonard's ongoing actions. That meeting and this [violation] notice are not unrelated. I do wish Mr. Leonard and Mr. Wasson had thicker skin and not involved our Bay Harbor Club in the brouhaha. This is not professional. This is not a coincidence either, but I do presume to understand a response to my letter today will necessitate a politically correct disavowal of the two."*

Siegel's response to Northrup, sent at 2:38 PM May 16, is included in the chain, as is Northrup's follow-up response to Siegel. In that follow-up response, sent at 8:28 AM on Tuesday, May 17, Northrup makes reference to having already spoken with Mayor Leonard about this issue sometime on May 16.

Documents provided by Code Compliance Officer Evelyn Merizalde during her interview on May 27, 2016. The attachments include more color photos of conditions she encountered at 1155 103rd Street during her May 11 inspection. The Northrup email chain is also attached.

Follow-up documents sent by email to this Investigator by Code Compliance Inspector Evelyn Merizalde on July 15, 2016. The attachments included the Code Enforcement Weekly Report for May 5 to 12, 2016. Only two pages of the 30-page document have been excerpted – the cover and Page 25 (Item 21839 refers to the inspection at 1155 103rd St., aka the Birdcage; it indicates the origin of the Birdcage complaint as "Neighbor.")). This weekly report compiled by the department is submitted to the Town Manager and Council.

Email provided by Patricia "Trish" Lawrence during her interview on June 10, 2016. The email, sent at 9:35 AM on April 14, 2016 to Mayor Jordan Leonard is entitled "Hi there Mayor Leonard!!"

Miscellaneous notes:

- Aerial maps with notes providing a frame of reference for the location of the Bay Harbor Club and neighboring properties;
- Google Map frame grabs of the vicinity;
- news clippings regarding the historic preservation fights on that end of the island;
- background information about Morris Broad and his father, Shepard Broad, who founded the town and was its first mayor;
- general information identifying officers of the Island Pointe condo association

Conclusion:

The evidence, largely circumstantial, seems to indicate that Mayor Leonard exploited his official position by using an agency of the Town he leads to retaliate against, or "send a message" to, a critic of town management who threatened to run against him in the next election cycle.

The Mayor's role in initiating the "anonymous" complaint, and the timing of the Code Enforcement inspection- less than 24 hours after a confrontational meeting with a resident of the building- may, in fact, be purely coincidental, as the Mayor insists. But the circumstances remain suspect.

Neither Mayor Leonard nor Code Enforcement Director Siegel could recall exactly when the Mayor initially passed along the original "complaint" about rusted railing and peeling exterior paint at the Bay Harbor Club/Dexter/Birdcage building. But Siegel and the Mayor were consistent and clear. Both said he was forwarding the complaint from *an officer of the*

neighboring Island Pointe condominium association who wished to remain anonymous.

Yet, when that officer, Patricia “Trish” Lawrence, was located and questioned, she told a vastly different story. A highly credible witness, Lawrence testified that she referred to the conditions at the Dexter building in a totally different context and as a minor aside in a mid-April conversation with the mayor that covered a number of unrelated topics.

She testified that she didn’t expect anyone – including the Mayor – to ask Code Compliance to inspect conditions at the neighboring building, where Maya owns a unit. And if she didn’t ask for a Code Compliance inspection, she naturally never asked for anonymity.

Lawrence testified that she simply mentioned the peeling paint and rusting railings to Leonard to find out whether the neighbors’ fears of a knockdown-and-redevelopment scenario was playing out at the Dexter building. Many of her Island Pointe constituents – especially those with eastern-exposure waterfront views --- are clearly going to be affected if the Dexter building is razed and replaced by a much larger building.

It is also important to note the timing here. Lawrence spoke with the Mayor on a variety of issues sometime around April 14 and 15. The Mayor testified that while he usually forwards anonymous citizen complaints within a day or two, he had no specific recollection when he first forwarded the complaint about conditions at the Bay Harbor Club/Dexter/Birdcage building to Siegel. And Siegel believes the Mayor first forwarded the “anonymous” complaint sometime during the week of May 2 – at minimum, **two weeks** after his initial conversation with Lawrence.

Compare that timeline against the chronology of Victor Maya’s escalating hostilities with Manager Wasson and other town employees in late April and early May, while the council was evaluating Wasson and weighing an expanded pension plan for the Manager:

Those public meetings occurred on May 5 and May 9 -- the latter of which occurred one day before Maya’s Town Hall meeting with Leonard and Wasson, and two days before Officer Merizalde was sent to his building to inspect the railings and paint.

It is troubling that Mayor Leonard, under oath, could not recall whether he spoke with Siegel immediately after the highly charged May 10 confrontation at Town Hall with Maya – a meeting so tense that the Mayor believed Maya and Manager Wasson might actually come to blows, and a meeting that abruptly ended after Maya threatened to run against the Mayor in the next election cycle.

What is clear from the investigation is that the Mayor testified that he spoke twice with Siegel about inspecting the conditions at the Birdcage. And Siegel, in her email, and under oath, stated that she instructed Merizalde on May 10 to inspect the Birdcage first thing the next morning, and Merizalde followed orders.

What is also clear, is that the results of that inspection could have potentially cost Mr. Maya and his co-owner neighbors thousands of dollars to rectify the problems. What the Mayor considers an innocent, apolitical coincidence, Maya and his fellow officers on the co-op board reasonably viewed in a more threatening light.

There are, at least, however, several mitigating factors that argue against a finding that Mayor Leonard exploited his official position.

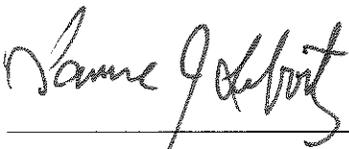
First, the municipality’s lack of a credible, traceable paper trail to the origins of the complaint

works in the Mayor's favor. Without a corroborating witness, there is no definitive way to know, with certainty, when Mayor Leonard first asked Siegel to send an inspector by the Birdcage building, nor when he asked her to follow-up.

Another potentially mitigating factor: As the photographs attached to Officer Merizalde's report clearly show, there were legitimate reasons for her to inspect the property and issue the courtesy notice at Bay Harbor Club. The rust and peeling paint were widespread and visible. The co-op president, Northrup, acknowledged that the work needed to be done (but added, in his email to town officials, that the co-op had been putting it off until the unrelated county historic preservation issues were completely resolved). The co-op is currently in the process of bringing the building into compliance.

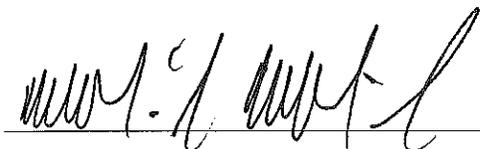
These conditions effectively blunt the more damning theoretical scenario that Mr. Maya feared i.e. that Mayor Leonard intentionally exploited his position by orchestrating a phony, trumped-up violation, or sought extensive fines and/or financially crippling litigation against the Maya's co-op. Although the reasonable beliefs of credible witnesses Maya and Lawrence, that Mayor Leonard was "sending a message" to a potential political foe may not be unfounded, the circumstantial nature of the evidence dictates against the filing of a formal complaint against Mayor Jordan. It is recommended that the Town take necessary steps to better document the origin of all code complaints as part of the overall documentation process, even if it means writing an email to memorialize truly anonymous complaints or unidentifiable citizen phone calls. Such a procedure would provide greater transparency, protect the public and protect officials against allegations that they engaged in exploitive behavior by creating a clearer record.

(Signature)

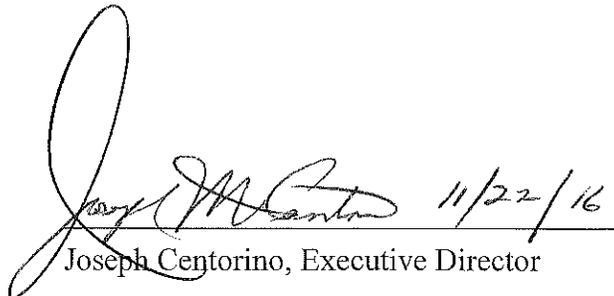


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