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MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST

In re: WALLACE, WEINSTEIN, and YAFFE /

C 08-22

PUBLIC REPORT AND FINAL DISMISSAL ORDER

COMPLAINANT Teri D'Amico filed the above-referenced citizen's COMPLAINT against RESPONDENTS Ilene Wallace, Kenneth Weinstein, and Robert Yaffe—all members of the Bay Harbor Islands Town Council, which also serves as the local planning agency.

RESPONDENTS were alleged to have violated the County Code at § 2-11.1 (d) when they voted for zoning changes and related Transfer Development Rights (TDRs) agreements in Bay Harbor Islands that inured to their personal gain. The COMPLAINANT asserted that during 2005 through 2006, the Town Council approved TDR agreements between the Millennium Group and two condominium associations—one in which council member Kenneth Weinstein was an owner and the other condominium association where council member Ilene Wallace was an owner and Robert Yaffe served as the association's attorney. Following approval by the Town Council, both condominium associations were financially remunerated in exchange for selling their development rights to the Millennium Group.

Pursuant to the Code of Miami-Dade County, Section 2-1068 and Section 2-11.1 (y), the Commission on Ethics & Public Trust has jurisdiction to enforce the County Ethics Ordinance at § 2-11.1 (d), which prohibits municipal elected officials from voting on matters if they "would or might, directly or indirectly, profit or be enhanced by" the vote.

On September 25, 2008, the Ethics Commission found the COMPLAINT legally sufficient. On October 30, 2008, the Ethics Commission dismissed the COMPLAINT for lack of probable cause. The evidence showed that council members Wallace and Weinstein properly recused themselves when official actions were taken affecting their own resident condominium associations. As to Mr. Yaffe's vote on the TDR agreement affecting the condominium association where he served as legal counsel, the Ethics Commission observed that because Mr. Yaffe had announced his potential conflict at a public meeting and had relied on advice from the town attorney, no facts existed to charge Mr. Yaffe with violating Section 2-11.1 (d) of the Ethics Code.

Therefore it is:

ORDERED AND ADJUDGED THAT the COMPLAINT is hereby **DISMISSED** for lack of probable cause.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on October 30, 2008.

MIAMI-DADE COUNTY COMMISSION ON
ETHICS & PUBLIC TRUST

By:



Kerry E. Rosenthal, Esq.
Chairman