



LETTER OF INSTRUCTION

To: City of Miami Beach Commissioner Jonah Wolfson and Leonor Hernandez

From: Miami-Dade County Commission on Ethics and Public Trust

Re: C13-16 (Roberts v. Wolfson)

Date: October 2013

An ethics complaint was filed against City of Miami Beach Commissioner Jonah Wolfson (Wolfson), alleging that Wolfson, and/ or his office staff failed to properly respond to a public record request on three occasions by denying that the requested records existed.

On September 12, 2013, the Ethics Commission dismissed the complaint after finding no probable cause to sustain the allegations. However, the Commission deemed it appropriate to issue a Letter of Instruction.

WHEREFORE, the Commission on Ethics and Public Trust issues this Letter of Instruction:

The complainant, Sherry Kaplan Roberts (Roberts), requested the e-mail distribution list Wolfson uses to contact constituents. She herself had, in the past, received an e-letter called "The Wolfson Report" that had been distributed by Wolfson. Her first request was sent on or about May 8, 2013. That request was responded to on May 29, 2013, by Leonor Hernandez (Hernandez), Wolfson's legislative aide. She advised Roberts that "Wolfson does not keep such a list." She later told Roberts that Wolfson "doesn't maintain an e-mail list in the office."

Roberts followed up on her public record request in June and again in July 2013, but was never provided with the e-mail distribution list.

Shortly after Roberts filed her complaint with the COE, Wolfson was contacted. He advised that it had been almost two years since he had sent out a "Wolfson Report." He claimed that all Roberts had to do to obtain the e-mail list was to send a public records request to the City's IT department, and they could

locate the mailing list identifying to whom the last newsletter had been delivered. By August 13, 2013, the City's IT department located the e-mail and Roberts was provided with the blind-copy mailing list used by Wolfson for his last "Wolfson Report" mailing, which she had requested in May.

The Miami-Dade County Home Rule Charter contains a provision known as the Citizen's Bill of Rights. The preamble to the Charter states;

"In order to *provide the public with full and accurate information*, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:
(emphasis added)

- (A)2 – **Truth in Government.** No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
- (A)3 – **Public Records.** All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public."

It should be noted that within one day of the COE investigator's contact with the Commissioner there was a response to the public record request. While Hernandez may have been technically correct when she said that the Commissioner's office no longer maintained the e-mail addresses in question, she could have easily obtained the records through the City's IT department or directed Roberts to that department. Either action would have resulted in Roberts receiving the information within a more reasonable time.

This Letter of Instruction is issued to remind all public servants of their continuous duties, obligations and responsibilities under the Citizens' Bill of Rights. Public servants are often required to respond to an increasingly inquisitive and demanding citizenry. While at times these requests can become burdensome it is the duty of the public servant to be helpful and provide full and accurate information. Had Wolfson's aide directed Roberts' public record request to the appropriate department initially, the matter would have been settled with minimal inconvenience to the citizen. We hope that Commissioner Wolfson and his aide, as well as all elected officials and public employees, will take this Letter of Instruction to heart in all their future interactions with the public, specifically with regard to ensuring full and prompt compliance with public record requests.