

MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST



In Re: Mark Burns

C 22-09-02

PUBLIC REPORT AND FINAL ORDER

On or about February 22, 2022, Complainant, Earl Takefman (Takefman), a City of Miami resident, filed this complaint against Mark Burns (Burns), Executive Director of the Bayfront Park Management Trust (Trust), alleging that in his attempt to convey his suggestion to modify the user agreements between the Trust and event organizers, Burns did not answer his emails and telephone messages, thereby violating several sections of the Citizen's Bill of Rights, to wit: The Introductory Paragraph found in Section (A); the Convenient Access provision; the Right to be Heard provision; and the Notice of Actions or Reasons provision. (The "Commission on Ethics and Public Trust" and Section (B) were also cited in the complaint).

Legal sufficiency exists where the complaint adequately alleges a violation of an ordinance within the jurisdiction of the Ethics Commission, committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant and filed with the Ethics Commission within three years of the alleged violation.

The Ethics Commission does not enforce the Introductory Paragraph of the Citizen's Bill of Rights ([A]) because that paragraph reflects a general statement establishing the intent and purpose of the Bill, not the specific rights.

Regards the allegation of violating Convenient Access, Takefman's complaint stems from Burn's failure to personally respond to his emails and messages, not the inconvenience of transacting business with the Trust because other than a pending lawsuit, Takefman had no *official* business with the Trust. Moreover, Burns is under no ethical duty to implement the unsolicited suggestions proposed by a resident.

Regards the allegation of violating the Right to be Heard, Takefman did not make an official request that this matter be addressed by the Trust board. The re-scheduling of meetings is a procedural matter which may be addressed with the Trust Clerk. However, the rescheduling of meetings did not infringe on his ability to communicate and advocate proposed modifications to the user agreements. Pointedly, his right to be heard was not ignored because his suggestions were received and considered by Trust personnel as evidenced in public records.

Lastly, there are no facts supporting a violation to the "Notice of Actions" provision because there are no *official* administrative decisions or proceedings entitling the complainant to notice of any of the board's decision(s).

This Commission has previously concluded that dissatisfaction or disagreement with the performance of an officer of a municipal board is not within the Commission's jurisdiction as established by precedent.

On April 13, 2022, upon review of the Complainant's emailed response dated April 11, 2022, and the Respondent's Motion to Dismiss or in the alternative, Motion to Stay, the Ethics Commission unanimously dismissed the complaint for lack of legal sufficiency.

Wherefore it is:

ORDERED AND ADJUDGED that COMPLAINT C22-09-02 against the Respondent is hereby dismissed.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on April 13, 2022.

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

By:

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Dr. Judith Bernier
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Dr. Judith Bernier,
Chair

Signed: 4/19/2022

Cc: Mark Burns, Respondent
George Wysong, Esq., Counsel for Respondent
Earl Takefman, Complainant