

CLOSE OUT MEMORANDUM

To: File

From: Michael P. Murawski
Advocate

Re: Wayne Rinehart

Date: December 20, 2005

Cc: Manuel W. Diaz
Sylvia Batista
Robert Meyers

This investigation was undertaken after we received information from several “community activists” from the Community Council 5 area. These individuals relayed to COE investigators that WAYNE RINEHART appeared before CC5ZAB on or about February 26, 2004 during the presentation on item 04-C25-01/03-123 and stated, in pertinent part, the following: “[A]fter numerous conversations with Mr. Price¹ regarding the entryway on 186 street...as you know there is zero stacking there...there’s constant problems with that situation... and after reducing the height of the building and moving the entryway to sixty-eight avenue...and the eyesore of the shopping center...I urge your support in this application...”

The community activists relayed that they had had several meetings with the developer/applicant for item 04-C25-01/03-123 Mr. JOSE MILTON, to discuss the zoning application. JOSE MILTON told these community activists during one of these meetings, that Rinehart had told him (MILTON) that he (Rinehart) “had the [CCZAB5] votes” to get the application passed.

¹ Stanley B. Price is the attorney for Jose Milton.

Subsequently, MILTON told the community activists that RINEHART had contacted him (MILTON) and requested payment even though the zoning application had been defeated.

The community activists were concerned that Mr. Rinehart was acting as a paid lobbyist on behalf of Mr. Milton without being registered as a lobbyist. Also they were generally concerned that Mr. Rinehart, who is a member of the County's Planning Advisory Board, was selling his influence with CCZAB5.

Mr. Price acknowledged that prior to the February 26, 2004 CC5ZAB meeting he met with Mr. Rinehart and requested his assistance in getting the item passed. Mr. Price did not elaborate on exactly what the "assistance" was.

Mr. Price advised Rinehart, prior to the February 26, 2004 meeting, that JOSE MILTON would be responsible for compensating him. Mr. Price told COE investigators that he and Rinehart discussed a fee of \$5000 (Five Thousand dollars). Mr. Price further advised that some time after the February 26, 2004 meeting, he was again contacted by Rinehart and Rinehart complained that he had not received compensation for his assistance and that he had been "stiffed" for \$5,000.

JOSE MILTON advised COE investigators that he hired Mr. Price to represent him for the presentation before CCZAB5. JOSE MILTON further advised that, prior to the February 26, 2004 meeting, he was informed by Mr. Price that Rinehart was influential in the area and it would be helpful to bring him [Rinehart] in to assist in getting the item passed.

JOSE MILTON advised that he told Mr. Price to "go ahead and do what is necessary" to ensure passage of the item. JOSE MILTON further advised COE investigators that he recalled that Rinehart did appear at the February 26, 2004 meeting and spoke in favor of the item.

JOSE MILTON further advised COE investigators that sometime after the February 26, 2004 meeting, Rinehart contacted JOSE MILTON via telephone and requested payment from

JOSE MILTON despite the fact that the zoning item had not passed.

JOSE MILTON further advised that he was not sure what the payment requested by Rinehart was for but he (MILTON) supposed it was for Rinehart's favorable comments at the CCZAB5 meeting or other contacts that were made by Rinehart to ensure passage of the item.

COE investigators interviewed each of the Community Council #5 members and were advised by each that they were not "lobbied" in any way by Mr. Rinehart on the JOSE MILTON application.

When Mr. Rinehart was interviewed by COE investigators, he claimed that he was, in fact, hired by JOSE MILTON as a "consultant" on the project and reviewed some plans related to the application. When asked by COE investigators whether Mr. Rinehart could provide any proof of his "work product" (i.e. a report or plans review summary) Mr. Rinehart was unable to do so. Moreover, JOSE MILTON denies that he ever hired Mr. Rinehart as a "consultant" or to review any plans associated with the application.

However, even if Mr. Rinehart was hired to be a paid lobbyist by JOSE MILTON, an ethics complaint can not be sustained against Mr. Rinehart as it appears he did not violate section 2-11.1(s) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. That section, which regulates "lobbyists", states in part (b) that " "lobbyist", specifically excludes attorneys or *other representatives employed or retained solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications* (emphasis added).

The evidence this investigation uncovered does demonstrate that Mr. Rinehart was hired by JOSE MILTON. Both JOSE MILTON and Stanley Price admit that a "fee" was discussed with Mr. Rinehart for his services. Both were contacted by Mr. Rinehart as Rinehart was seeking to collect his fee. There is no question that Mr. Rinehart appeared at the February 26, 2004 zoning hearing and voiced his support for JOSE MILTON's application.

Because this February 26, 2004 meeting was a publicly noticed quasi-judicial proceeding, Rinehart's appearance there does not constitute "lobbying". There is no evidence that he "lobbied" any other individuals in connection with the application.

Similarly, Mr. Rinehart can not be charged with violating the "gift" provisions of the ethics ordinance when he asked JOSE MILTON for \$5000.00, because a "gift" must be sought "without adequate or lawful consideration". Since Mr. Rinehart was ostensibly hired to appear before CABZ5 and lend his support to MILTON's application (and it appears that is precisely what he did), than Mr. Rinehart provided consideration for his fee.

Accordingly, this investigation is closed.