

OFFICE OF THE INDEPENDENT ADVOCATE
REPORT OF INVESTIGATION

K #: K09-120

Date Opened: 8/19/2009

Date Closed: 10/16/2009

Name of investigator: Breno Penichet

Allegation:

This Investigation is predicated upon information received in the form of a phone call from Mr. Oscar Alfonso, Mayor North Bay Village alleging that a member of the City's Planning and Zoning Board was using her position on the board to change the Hedge ordinance in order to avoid paying a Code enforcement Citation.

Section 2-11.1 of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance. (g) Exploitation of official position prohibited. No person included in the terms defined in Subsections (b)(1) through (6) shall use or attempt to use his official position to secure special privileges or exemptions for himself 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..

On 18 August 2009 COE Investigator Penichet received a telephone call from Mr. Oscar Alfonso who is the Mayor for the City of North Bay Village. Alfonso advised that since people are always filing complaints against him for what they perceive are illegal or unethical acts that he feels he does not commit or deserve to be blamed for, he felt it was his duty to bring to our attention what the Chairman of the NBV Zoning board, Ms. Penelope Friedland was planning to do. Alfonso advised that Friedland was

going to change the Hedge Ordinance of the City in order to avoid paying or having to deal with a citation that was issued to her, for having her hedges too high and thus being in violation. Alfonso further requested that this Investigator attend the meeting in which this Item would be discussed.

Investigator Penichet via a FSS 119 request obtained from the City clerk copies of the Meeting agenda along with the meeting recording and the supporting paper work.

A review of the paper work provided by the City revealed that the Zoning Board did in fact take up the matter of reviewing Section 152.055 of the City of North Bay Village Code of Ordinances regarding hedges. Investigator Penichet also reviewed the recording provided by the Clerk. The recording revealed that many residents within the City received letters notifying them that they were in violation of the hedge ordinance. The letters were really courtesy notices advising the persons of the fact that their hedges did not meet City Code. The recording also revealed that Mr. Paul Gioa NBV Building Official did not initiate the action and advised he did not know who did.

COE Investigator Penichet interviewed NBV Code Inspector Yfrahin Rodriguez regarding the courtesy notices he posted on the property of certain residents regarding their hedges. Rodriguez advised that he was requested by the City administration to advise the citizens that were in violation that they had to comply with the code. Rodriguez advised these were letters and not Code Citations, there were no penalties and were only sent as information. Rodriguez further stated that Friedland contacted the City Manager immediately to inquire as to the motive of the action taken. Rodriguez made it clear the action was only for information and no punitive action was taken.

COE Investigator Penichet also reviewed the City Code provided by the Clerk and it appeared that what was being proposed was not unreasonable. The information provided also revealed that several residents demonstrated unhappiness with the height requirement as it was now and wished for it to be changed. The claim that Ms. Freidland was trying to by-pass the law in order to not pay a fine was not accurate and the information provided was unfounded.

CONCLUSION: After discussing these facts with the Advocate it was decided by him that no violation of the Conflict of Interest and Code of Ethics ordinance occurred.