

OFFICE OF THE INDEPENDENT ADVOCATE
REPORT OF INVESTIGATION

K #:09-098

Date Opened:

Date Closed:

Name of investigator: Kennedy Rosario

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Background:

Complainant, Nicolas Jutchenko (Jutchenko), is a renter of an apartment in the Town of Bay Harbor Islands (BHI). The building, the Kingsley Arms Apartments 9291 E. Bay Harbor Dr., where-in the complainant rents, is owned by Stephanie Bruder (Bruder) a current BHI Commissioner.

Complainant first advised the COE of his complaint via a voice-mail message left on the COE telephone hot-line.

Jutchenko was asked to meet with COE investigators and subsequently stated the following;

He was renting an apartment in BHI when he encountered both Bruder and BHI Commissioner Alberto Ruder during a campaign meet and greet. In the ensuing conversation with Ruder, Jutchenko mentioned that he was in need of renting an apartment; Jutchenko was told that Bruder had apartments for rent...Ruder relayed the information to Bruder and shortly thereafter Bruder called Jutchenko.

On April 6, 2009 Jutchenko, after dealing directly with Bruder, moved into the Kingsley Arms.

According to Jutchenko, immediately after moving in, the problems with the apartment began i.e. no hot water for over a month due to problems with the water heater, pest infestation, faulty windows etc.

Other problems in the apartment came to light, as well as problems within the building as a whole, that resulted in Jutchenko seeking relief via complaints to BHI code enforcement.

Jutchenko, a former television news cameraman in New York City, also reported the incidents to Channel 7's investigative reporter Carmel Cafiero.

Bruder, according to Jutchenko, employed a handyman by the name of Arsenio Anthony Conde who did the maintenance and/or repairs for the Bruder building. An incident and/or confrontation between Conde and Jutchenko occurred resulting in BHI police arresting Conde for Aggravated Assault on Jutchenko (BHIPD C/N 09-473-OF).

Of note;

Jutchenko and Bruder are also opposing parties in a filed Landlord & Tenant dispute (Civil Division C/N 091634CC24) as well as a protective order/injunction against Jutchenko (C/N 2009-017299-FC-04).

Allegation:

Complainant alleges that Bruder, through her position as Town Commissioner, has unduly influenced BHI code enforcement procedures to disregard code violations in property owned by Bruder.

If proven, the act(s) may constitute a violation of the Miami-Dade Conflict of Interest Ordinance to wit: Prohibition on exploitation of official position.

Investigation:

A database search of Bruder's Statement of Financial Interests (Form 1) reveals the Kingsley Arms as a "source of income".

The ownership of the Kingsley Arms is held under a Florida corporation...Kingsley Arms Apartments, Inc. (KAA)

During the course of the investigation it was further discovered that Bruder, through her husband (Harry Bruder) and his family have other BHI rental properties:

The Westview Apartments 1175-85 98 St.

The Rexleigh Apartments 9881 E. bay Drive

The Driftwoods Apartments 9955 E. Bay Harbour Drive

The COE, through BHI Town Clerk Marlene Marante, commissioned a report of any and all cited building code violations on the above named Bruder family properties dating back five years.

Additionally, requested where the names and pertinent qualifications / certifications of the BHI Building Inspectors entrusted with enforcing the BHI / Miami-Dade County Code Enforcement for residential / commercial property.

Added to the request was a summary of any cited BHI code violations of properties owned by the Bruder family and any other BHI Council members.

Marante, in a cover letter accompanying the requested information (Exhibit 1), mentioned and supplied documents addressing a legal opinion from BHI Special Counsel Stanley Price on the legal right of code enforcement officers to enter (or prohibited from entering) private property.

It is to be noted that Marante also sits as the BHI Compliance Director.

COE conducted interviews of BHI Code Officers Stacy Hirsch (Hirsch) and Candyce Toleman (Toleman);

Hirsch was advised by her immediate supervisor Marante that the COE would be interviewing her.

Hirsch was recently fired by BHI Town Manager as a result of a complaint by a BHI property owner (not Bruder). The firing / complaint were discussed and deemed not related to the Bruder investigation.

Hirsch did voice a concern that many of the Bruder code violations were missing and attributed this fact to the computer logging system, however when shown the documents supplied to the COE by Marante, Hirsch could not point to any specific event and or document that was not among them.

Hirsch was helpful to the COE in explaining the mechanisms employed by BHI as it pertains to the inspection and subsequent methods utilized to ensure property owner compliance.

Hirsch could not point to any specific incident, in which she was a witness; where-in Councilwoman Bruder used her position to garner any special treatment stating that she mostly dealt with her husband as the property owner.

However, Jutchenko, in one of the many conversations with COE, quoted Hirsch to wit: "I cannot speak or step foot on any Bruder property...I have been prohibited from doing anything with Bruder".

While this comment is of interest to the investigation it should be noted that documents received, via the COE request, indicate that Hirsch was "banned" from entering at least two non- Bruder properties, one of which was property owned by her cousin Frances Neuhut, a BHI activist.

It is further noted that such banning of Code Enforcement Officers from private property is considered legal (see BHI Special Counsel Stanley Price memorandum dated June 17, 2002) absent a search warrant.

Toleman also agreed to meet with the COE;

Toleman has been with BHI for more than four years, currently serving as a Code Enforcement Officer under the supervision of Marante.

Toleman also explained the duties of a BHI Code Enforcement Officer stating that she "will do anything I can to get owner into compliance", which is the overall goal rather than punitive measures.

Toleman is quite aware of the on-going incidents involving Jutchenko and Bruder, but states that it is Harry Bruder that manages the properties for the actual owner, Harry Bruder's mother and it is he who she deals with in matters concerning code infractions / complaints.

Toleman stated that she has on occasion heard Jutchenko state that Bruder and family are part of a "Colombian cartel", have ties to organized crime and that "they (the Bruders) own the town".

During the course of this investigation, Jutchenko would often mention to this writer his belief that the Bruders were engaged in organized crime, be it as members of a Colombian cartel, but mostly as members of what is known as linked to traditional organized crime families.

While this disclosure is not within the jurisdictional power of the COE, due diligence dictated this allegation be brought forward. To that end arrangements were made for Jutchenko to voice these allegations to the State Attorney's Office.

Assistant State Attorney Joseph Centorino listened to Jutchenko's accusation and correctly deemed them to be without merit given that Jutchenko could produce no credible evidence / witnesses to support his claims.

This writer, a former Organized Crime specialist with the Miami-Dade Police Department, concurred.

It is of note that Toleman appeared as a witness on behalf of Bruder in her hearing seeking judicial relief against Jutchenko.

Jutchenko asked this writer to sit in on one of the hearings where Toleman was due to testify....Toleman's sworn testimony revealed nothing of value to this COE investigation.

Marante was also interviewed by COE Investigators, her statement echoes what she wrote in her response to the above noted information requests namely that Councilwoman Bruder and any other BHI council person receive the same treatment as any other BHI resident/property owner.

Marante also stated that Bruder did not exercise any BHI Council powers to interfere with nor impede the established BHI code enforcement procedures.

BHI Councilwoman Stephanie Bruder, accompanied by BHI attorney Craig Sherman, in a voluntary interview with the COE, denied Jutchenko's accusations.

CONCLUSION:

This investigation, in addition to that which is chronicled above, analyzed the requested documents and did not discover anything of material worth to substantiate the Jutchenko complaint. Therefore this matter should be closed.