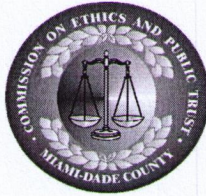


# MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



## REPORT OF INVESTIGATION

K11-156/C11-035

Date Opened: 12/15/11

Date Closed: 1/17/12

Investigators: Sylvia Batista

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On 12/02/11, the COE received an ethics complaint against Dale Lee (Lee), Chief Building Official for the Town of Bay Harbor Island (BHI). The ethics complaint was filed by David Friedeberg (Friedeberg), who resides at 1055 92<sup>nd</sup> Street, #2, Bay Harbor Islands, Florida (the “property”).

In his ethics complaint, Friedeberg alleged that Lee has given special treatment to the owner of the property by allowing him not to hire a licensed general contractor to do the repairs as required in the permit issued by BHI.

The COE’s issue relates to a possible violation of the Conflict of Interest and Code of Ethics Ordinance Section 2-11.1(g) *Prohibition on exploitation of official position*.

### **12/16/11 - Teresa Borges, Code Compliance Officer –**

Teresa Borges rendered a telephone interview. Borges recalled that she became involved with the issues regarding Friedeberg’s unit on 11/8/11. Borges explained that she met with the landlord, a contractor, and Friedeberg. Borges said that the items in violation were inside



Friedeberg's apartment. Friedeberg was given a courtesy notice regarding the deficiencies in the unit with 12 items on it. The list was written by the previous inspector, Evelyn Merizalde, who is now on maternity leave. Borges advised that her first contact with Friedeberg was on 11/8/11. Borges explained that she arranged to meet with the tenants, the landlord/owner and contractor at the site on the following day at 9:30 a.m. On that day they were all allowed access to the unit by Friedeberg. Borges was present until the contractors finished the work on the exterior doors. The work was completed and approved on 11/9/11. Borges said that she was present the whole time because she wanted to avoid having any problems. Borges said that there was no incident on that day.

Borges explained that on 11/14/11 she went to the property because on that day contractors were scheduled to go inside the unit again and replace the doors to the closets, change the caulking in the bath tub and finish a floor repair. Borges explained that the tenant took a long time opening the door. When they finally opened the door, the tenants said that they were sick and the contractor should not come in. Borges said she told Friedeberg to call her and let her know so that they could return. Borges said that she ran into Friedeberg and his roommate the next day and they told her that they would not allow anyone else inside the unit to complete the work. On that same day, the landlord tried to come in with some contractors and they did not let them in.

Borges advised that Friedeberg and his roommate have not paid their rent in months. They are embroiled in legal action with the owner of the property and claim to be paying their rent to the court.



**12/19/11 – Dale Lee, BHI Chief Building Official –**

After discussing the issues brought forth in the ethics complaint, Lee explained that BHI had issued an owner/builder permit that allowed the property owners to hire anyone to complete the work that needed to be done at the property as long as they provided direct, onsite supervision. Lee provided the COE with a copy of the owner/builder permit which does not require that the property owners hire a licensed general contractor to do the work. The owner/builder permit bears the same number (BP2011-217) as the initial permit attached to the ethics complaint by Friedeberg. The copy of the permit provided by Lee reflects that the work performed under the owner/builder permit was completed and approved on 11/9/11 by BHI.

Lee explained that he acted in accordance to the law when he issued an owner/builder permit to the owner. Lee provided a copy of F.S.489(7) pursuant to which the owner of the property can obtain an owner/builder permit “when acting as their own contractor and providing direct, onsite supervision themselves of all the work not performed by a licensed contractor.”

**01/13/12 – Charles Danger, Building Official, Miami-Dade County Permitting Environment and Regulatory Affairs**

The COE contacted Danger and requested clarification as to whether the owner of rental property can obtain an owner/builder permit if the work to be performed is minor such as was the case with the subject property. Danger explained that if the work is minor, and costs less than \$5,000.00, the permit can be issued to the owner of the commercial property. Danger explained that a residential apartment building qualifies as commercial property.

**01/13/12 – Salvatore Galea**

Galea rendered a statement on the subject matter. Galea advised that he is the owner of the building where Friedeberg resides with a roommate (the “tenants”). Galea explained that the tenants rented the apartment from him in May of 2011, and after 3 or 4 months, stopped making



rental payments. Galea said that he spoke with the tenants on several occasions about the rent, but they still did not pay.

Galea advised that he filed an eviction complaint.<sup>1</sup> Galea explained that the Judge on the case ordered the tenants to pay their rent into the court registry.<sup>2</sup> Galea said that the tenants have exploited every venue available to them in order to keep from paying rent. Galea explained that his eviction complaint opened up a Pandora's box of additional complaints from Friedeberg.

Galea said that he was issued a permit for the work needed. The first permit that he obtained required that he hire a licensed general contractor to do the work. Galea said that this became a problem for the tenants because the company that he hired to do the work was in the process of getting their license. Galea explained that a few days later he realized that he qualified for an owner/builder permit because the work was minor and did not require much expertise. Galea explained that he used to be a City Planner for the City of Boston and knew that he could get an owner/builder's permit for minor repairs.

Galea advised that his building has six (6) units and they all needed to have their doors replaced because they were rotted from the rain. Galea said that all of the work has been completed, but he could not do some of the work inside the unit because the tenants did not allow access. When he and the workers first went to the unit, the tenants would not allow him to replace the doors, so he called for a building official who met him there and they were able to do the work. Galea said that he replaced the toilet seat and a ceiling fan which he was not required to do. The workers did other minor things, but the tenants did not allow them to finish. Galea

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<sup>1</sup> Miami-Dade County court records reflect that Galea filed an eviction complaint against the tenants on September 14, 2011.

<sup>2</sup> Court records reflect that tenants have paid the rental payments into the court registry which payments have been given to Galea.



advised that the tenants are due to move out in April and he will do the work after they have gone.

**Conclusion:**

The owner/builder permit provided by respondent negates the allegations made in the ethics complaint filed by Friedeberg. Report has been turned over to the Advocate for a probable cause recommendation.