

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K #: K12-146

Date Opened: Sept. 24, 2012

Date Closed: Oct. 15, 2012

Name of Investigator: Manuel W. Diaz

Allegation:

David Zisman (Zisman), a Village of Palmetto Bay (VPB) activist, contacted the COE and advised that last year the Mayor Shelly Stanczyk (Stanczyk) introduced an ordinance establishing an amnesty program for illegal backyard sheds. The ordinance was passed. Zisman learned that the Mayor, at the time she introduced the ordinance, had an illegal shed (as defined in the ordinance) at her residence. Zisman researched and found that the Mayor never applied to participate in the amnesty program. He recently called the VPB's Zoning Department and was told him that the Stanczyk residence was cited for an illegal shed. Zisman said he has made two public records requests to the VPB Clerk for the documentation verifying that the Mayor was cited. He said that the VPB did not respond to his request. He questions whether the Mayor was ever cited.

Applicable Legislation:

Palmetto Bay Amnesty Ordinance No. 09-03 (Copy in Investigative file)

Miami Dade County Conflict of Interest and Code of Ethics Ordinance, Section 2-1.1

(g) Exploitation of official position prohibited. No person included in the terms defined in Subsections (b) (1) through (6) and (b) (13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others...”

Florida State Statutes: Title IX

162.21 Enforcement of county or municipal codes or ordinances; penalties.—

(3)(a) A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

(b) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. ...

Investigation:

A public records request was made to the VPB Town Clerk for any documents reflecting any code violation for an illegal shed at the Stanczyk residence.

Research on VPB’s website indicates that the VPB Ordinance 09-03 went into effect in February of 2009. The amnesty period set in the ordinance was eighteen (18) months. A copy of the Ordinance 09-03 was obtained through the VPB Clerks office and has been included in the file.

Interviews:

Eve Boutsis (Boutsis) – VPB Town Attorney.

Boutsis contacted the COE in response to the public records request. She advised that her office would act a liaison and provide any documents that were needed.

Boutsis supplied a copy of a VPB Courtesy Warning Notice (Notice) issued by to “Stanley J. Stanczyk and Shelly at 8800 SW 181 Terrace” on August 17, 2012. The Notice required the owners to “obtain approvals, permit for an illegal shed located at their residence.” The Notice added that the shed must be inspected, repaired or demolished by August 27, 2012.

Boutsis advised that it is the policy of VPB to encourage voluntary compliance by residents. Boutsis added that it is not unusual for the Code Compliance Division to issue a 30-day extension for compliance to residents for such violations. According to Boutsis, the Stanczyk residence will be inspected at the end of the 30-day extension period. If Stanczyk has not complied by then, a Notice will be issued by the Code Compliance Division and the violation will be prosecuted by her office.

Boutsis provided a copy of the VPB Code Compliance Division file and the investigator’s notes for the Stanczyk case (CE2012-6094). The file indicates that Stanczyk applied for and received a permit to demolish the shed on August 22, 2012. A notation in the file made by the Inspector that indicates that the residence will be rechecked in 30 days for compliance. The file also contains a Code Compliance Division Extension Request Form, dated September 26, 2012, requesting an additional 30-day extension for comply with the Notice.

On October 10, 2012, Boutsis advised the COE via email, that the shed at the Stanczyk residence had been demolished, the residence inspected and the permit closed. (Copy in file)

Megan Alexander (Alexander) - VPB Town Clerk.

Alexander provided the COE with copies emails indicating that Zisman received documents that he requested concerning the Notice that was issued to Stanczyk. (Copies in file).

Darby Delsalle (Delsalle) - VPB Director of Planning and Zoning.

Delsalle advised that he is aware of the Notice given to Stanczyk. He said that he last spoke to Stanczyk during the last week of September. During the conversation, Stanczyk advised that the shed would be torn down in early October. Delsalle advised that a Code Inspector would monitor the progress of the permit to insure that the shed would be demolished and the Notice complied with.

Conclusion:

Given the fact that Stanczyk is in compliance and there is no evidence that she exploited her official position as Mayor, the instant case is closed without further action.