

# MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



## REPORT OF INVESTIGATION

K #: 12-040

Date Opened: March 9, 2012

Date Closed: April 17, 2012

Name of Investigator: Manuel W. Diaz

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### **Allegation:**

David Arthur Walters (Walters), a blogger who writes about City of Miami Beach (City) Government, contacted the COE. Walters advised that he complained in early January 2012 to Assistant City Manager Hilda Fernandez (Fernandez) about the condition of an abandoned building in Miami Beach (1020 6<sup>th</sup> Street) and she did not respond to his complaint.

### **Applicable Legislation:**

Miami Dade County Code of Conduct and Conflict of Interest Ordinance: Sec.2-11.1

(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 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.

### **Investigation:**

Walters provided a copy of a news article, News: Appearance of Impropriety, which he wrote and which appeared in [www.sunpostweekly.com](http://www.sunpostweekly.com) on February 23, 2012. In the article, Walters identified 1020 6<sup>th</sup> Street, Miami Beach, as an abandoned building which has fallen into disrepair. He attributes the condition of the location to four reasons: the owner Juan Luis Maldonado, Jr. (Maldonado), the Bank of America (the mortgagor), the Compliance Division Miami Beach (Code Compliance), and the City Manager's Office.

Walters further writes that City employees believe that there is corruption at Code Compliance and "that clean ups and liens for violations were allegedly being held back so deals could be made with property owners and developers at the right moment."

To substantiate his position "that clean ups and liens for violations were allegedly being held back," Walters cites his research into City recorded documents and his emails to Fernandez which went unanswered.

In the article, Walters specifically alleges that he:

1. Asked Fernandez if she was aware of any corruption and she failed to respond to his inquiry.
2. Asked Fernandez concerning the disposition of Notice of Fire Violation issued at the location on April 20, 2011. She failed to respond to his inquiry.
3. Asked Fernandez concerning the disposition of two other liens placed against the location. Again Walters advised that Fernandez did not respond to his inquiry

### **Interviews:**

**David Arthur Walters**, Blogger/Author, News: An Appearance of Impropriety

Walters was contacted. He advised that his attention was brought to the location because he lives in the neighborhood and he periodically walks by. Walters advised that he got much of the information concerning the location from speaking to City

employees and individuals who live in the neighborhood. He advised that he conducted on-line research on the fire violation and the Code Compliance liens. Walters also emailed Fernandez and received no response prior to writing his article. (January 6, 2012 email in file.) Walters advised that he had no actual evidence to support his allegation of corruption.

**Hilda Fernandez, Assistant City Manger, Miami Beach**

Fernandez was contacted via telephone. She was advised as to the content of the complaint by Walters. Fernandez advised that she recognized Walters name as a blogger who writes about the City. She said that he has sent her numerous complaints about buildings in the City that may have Code violations. Fernandez explained that when she receives such complaints she delegates them to the City departments which have jurisdiction. She conceded that she does personally answer each email sent to her. Fernandez did not recall Walters' specific complaints about the location.

Fernandez was subsequently interviewed in the City Manager's conference room. She provided copies of emails, resulting from the Walters' inquiry, that she sent to Lynn Bernstein (Bernstein), Community Resource and Outreach Team. (January 6, 2012 email in file.) Fernandez' email to Bernstein was dated after the email from Walters to Fernandez. She advised that it was Bernstein's responsibility to follow up on the complaints by Walters and report to her.

A review of Bernstein's emails confirms that the City departments queried responded to Bernstein's inquiries. The responses were in turn relayed to Fernandez by Bernstein via email. (January 6, 2012-January 11, 2012 emails in file.) During the interview, Fernandez again reiterated that she does not regularly return complaint emails.

**Robert Santos-Alborna**, Code Compliance Division Director, Miami Beach

Santos-Alborna was contacted. He confirmed that there was one lien pending on the property and a second Special Master decision with liens running on the property. He advised that the City's Finance Department bore the responsibility for filing liens. He recommended that the COE contact the Finance Department for additional information.

Santos-Alborna was asked if Fernandez or any other City staffer had attempted to pressure the outcome of any Code Compliance case involving the location or any case against Maldonado. He replied that they have never received any pressure and that all the cases were handled according to City policy.

**Manny Marquez**, Finance Department, Revenue Manager, Miami Beach

Marquez was contacted and provided the following:

1. A copy of a Priority Lien for the location filed by the City on 7/8/11 in the amount of \$3806.03.
2. A copy of the City's financial interest in the property, indicating that the City has a Special Master lien pending on the location for \$21,399.77. As stated on the Lien, the fines will continue to accumulate until the lien is settled.

**Sonya Flores Machen**, P.E. Fire Marshall, Fire Department Fire Prevention Division, Miami Beach

Machen was contacted. She provided a copy of the Fire Violation, referred to in the Walters' article. According to the supporting documentation provided by Machen, the violation was administratively closed when it was determined that the building was vacant. There was no fine, nor was there any lien levied. According to the records, the fire violation no longer applied since the building was abandoned and boarded.

**Summary of Facts:**

1. Walters provided an article that he had written for a Miami Beach on line news paper.
2. In the article, he alleged that he had notified Fernandez of possible corruption within the Code Compliance Division and the Fire Department.
3. Walters was concerned that Fernandez did not return his emails, alleging possible corruption, on her part.
4. Fernandez was contacted, she conceded receiving Walters' emails. She advised that his concerns were relayed to subordinates for review and appropriate action.
5. Fernandez conceded that she did not return Walters' emails.
6. The investigation confirms that Fernandez did relay Walters' concerns to City staffers and requested clarification.
7. The investigation confirmed that the Fire Violation referred to in the Walters article was handled appropriately.
8. The investigation confirmed that the two liens referred to in the Walter's article were properly filed.

**Conclusion:**

The investigation found no evidence of a violation of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance or of the Miami Beach Ethics Code. Therefore, the case is closed without further action.













**CONCLUSION:**