



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigators: Manuel W. Diaz

Case No: K14-053/ C14-028	Case Name: Rivas-Amaya v. Garcia et al.	<u>Date Open:</u>	<u>Date Completed:</u>
Complainant(s): Margaret Rivas- Amaya	Subject(s): Miami Springs Mayor, Manager and Council	6/3/14	6/30/14

Allegation(s):

Margaret Rivas-Amaya (Rivas-Amaya) filed a complaint alleging that the City of Miami Springs (the City) Mayor, Manager and Council failed to enforce the City Code (Code).

In the complaint, Rivas-Amaya states that she and other residents complained of loud music emanating from Woody's Tavern (Woody's) a business licensed to operate by the City. She states that Woody's routinely violates the provisions contained in the Code against loud music at certain hours.

Rivas-Amaya stated that she spoke directly the Mayor and the Manager concerning the violations. Rivas-Amaya also made several personal appearances before the City Council reporting the violations to the Council, which includes the Mayor, and the Council failed to enforce the provisions of the Code to prevent future violations.

Relevant Ordinances:

(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:

Interviews:

Ronald K Gorland (Gorland), City Manager

Gorland was interviewed in his office. Also present during the interview was the City Attorney Jan K. Seiden (Seiden) - Orshan Lithman Seiden, 150 Alhambra Cir., Ste 1150, Coral Gables, Florida 33134. Gorland and Seiden were provided with a copy of the complaint and the scope of the complaint was explained to them.

Seiden initially questioned the jurisdiction of the COE in investigating what seemed to be a citizen's complaint in a municipal code enforcement issue. Both were advised that the COE would consider the actions of the City Manager when handling the citizen's complaint to determine if his objectivity was somehow influenced. The COE could also consider the actions of the elected officials if the officials inappropriately interfered with the City Manager's decision making process.

Gorland advised that Rivas-Amaya's complaint concerning the loud music at Woody's was handled in the same way other complaints concerning loud music are handled. He explained that there are two other similar establishments in the City that periodically get loud music complaints. The City first seeks voluntary compliance. If compliance is not achieved then a violation is issued requiring correction. If the problem is not corrected, the violation is taken before the City's Code Enforcement Board.

Gorland explained that Woody's is located in a business district, which abuts a residential zone. The business district was created by the City a number of years ago.

Gorland explained the City employs one Code Enforcement Officer. The officer works normal business hours. The police department responds to citizen's complaints regarding the loud music when the enforcement officer is not on duty. Police reports documenting the citizen's complaints are written and forwarded through the Police Chief to the Code Enforcement officer. Gorland, the Police Chief and the Code Enforcement Officer meet to discuss the complaints.

The owner of Woody's requested an exception, via a "Special Permit" to the 10:00 P.M., 50 Ft. provisions in the City Code adopted in 1975. Gorland after, consulting with Seiden, and

considering the location of Woody's has granted a number of special permits. The special permit extends the time music can be played from 10:00 P.M. hours to 11:00 P.M. and the 50 feet to 100 feet on weekends. Gorland explained that the Code permits him to conduct an investigation and the discretion to issue a special permit based upon the results of his investigation. Gorland advised that he made the decision to issue the special permits. There was no input into the process from any of the City's elected officials.

Seiden advised that Woody's is properly zoned and is in compliance with the City Code. Seiden confirmed that the City's Code of Ordinances was adopted in 1975. The Code gave discretion to the City Manager to make the decision of whether or not to issue a "Special Permit".

Gorland advised that the City periodically receives noise complaints about Woody's from the neighbors. When officers respond, Woody's management always complies and turns the music down.

Gorland ended the interview stating that he will monitor any future loud music complaints and take appropriate action.

Zavier Garcia (Garcia), Mayor

Garcia denies having any business interest in Woody's. He claims to know the owner just like he knows the owners of many businesses in town. Garcia acknowledged that the City's noise ordinance was written in the 1970's and may need to be revised. He denies that Woody's is getting any special treatment; the noise ordinance applies to all establishments in town.

Francisco Suco, owner of Woody's

Suco was also contacted. He advised that it has cost him over \$7,500 in lawyers' fees to open his business. The City has placed a number of impediments in his way; the latest is parking. The City requested Miami-Dade County to restrict parking on 67th avenue; now his customers have no place to park. His lawyer is negotiating with the County to see if they will reverse their decision. Suco is thinking about suing the City for trying to close him down. He said that the Manager extended the hours of operation and the distance only after his lawyer threatened to sue. He denies that the City is giving him any preferential treatment. He has no business relationship with either the Manager or the Mayor.

Margaret Rivas-Amaya, Complainant

Rivas-Amaya was also contacted. She advised that she had no additional information. She stated that she had heard that there may be some business connection between the Mayor and the owner of Woody's. She said this was just rumor and she had no verifiable evidence. She advised that a number of elected officials frequent Woody's.

Documents Reviewed:

A review of Miami-Dade County Public Records, an Accurant search, and a review of the State of Florida Division of Corporations records failed to disclose any information associating the owner of Woody's with the City Manager or any other City official.

Municipal Code of the Town of Miami Springs (Copy in investigative file)

Sec. 99-01. Unnecessary, excessive, or unusual noises, generally.

Sec. 99-02. Operation of radios, phonographs, or other sound-making devices or ensembles.

Sec. 99-03. Hours of Operation of sound-making devices.

Sec. 99-20. Permit for exception to general regulations.

Sec. 99-21. Application for permit.

Sec. 99-22. Investigation of applicant.

Conclusions:

Report turned over to Advocate for probable cause recommendation.