



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Breno Penichet

CASE

CLOSED

Case # K14-086	Case Name: N. E. MAC	Date Open:	
Complainant(s): Deborah Hayden Alicia Rook	Subject(s): Kenneth H. Friedman Glenn Gopman Lenny Feldman	March 20, 2014	Date: <u>12/9/14</u>

Allegation(s):

The COE received an e-mail from Deborah Hayden (Hayden), inquiring whether the Sky Lake-Highland Lakes Area Homeowners Association (Sky Lake HOA) could conduct non-public meetings on incorporation issues that include appearances by County employees. Hayden also expressed a concern at the fact that, she along with Alicia Rook (Rook) felt that they would not be allowed to attend the HOA meeting where issues of incorporation would be discussed.

Hayden further advised that another one of her concerns was that three members of an advisory group on incorporation called NE MAC, which is a group that Miami-Dade Commissioner Sally Heyman (Heyman) had appointed people to, are also members of another private group "Committee to Incorporate NE Dade, Inc." According to Hayden, the three (3) members are Kenneth Friedman (Friedman), Glenn Gopman (Gopman), and Jonathan Morton (Morton). Hayden is of the opinion that if the NE MAC is a public board or committee subject to the Sunshine Law, then three of the members cannot also be involved at the same time in a private group dealing with the same issues.

Relevant Ordinances:

Chapter 119, Florida Statutes, Florida Sunshine Law.

Sec. 2-11.1(g), Miami-Dade County Conflict of Interest & Code of Ethics Ordinance,
"Exploitation of official position prohibited. No person included in the terms defined in subsection (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...”

Citizens’ Bill of Rights, Part 1, Miami-Dade County Charter, Sec. (6), “Right to Notice.

Persons entitled to notice of a County or municipal hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held...”

Investigation:

Interviews

Deborah Hayden

Hayden voluntarily agreed to be interviewed and provide information concerning the investigation. Hayden advised that she was concerned about not being able to attend a meeting of the Sky Lake HOA.

According to Hayden, she received a flyer from the Sky Lake HOA inviting residents to attend a meeting regarding incorporation and annexation. The flyer announced the meeting would be conducted by Jorge Fernandez, Miami-Dade County Office of Management & Budget (OMB), and Lenny Feld, Incorporation/Annexation Task Force member. The flyer also required a thirty dollar payment for annual membership. Hayden advised that she contacted Heyman’s office in order to get some kind of clarification as to why there was no public notice of this meeting, and why was a MDC employee allowed to participate. According to Hayden, she received no explanation, and that is when she decided to call the Director of OMB. Hayden advised that her main concern was that several members of the HOA and the “Committee to Incorporate Northeast Dade, Inc.” were also members of the NE MAC, which she felt created a conflict of interest and possibly a violation of the Sunshine Law.

According to Hayden, individuals opposed to incorporation in the NE MAC area were harassed, received death threats, had their tires slashed, etc. In 2013, according to Hayden, after she queried our office about Gopman and the problems with NE MAC became public, her computers and e-mail account were hacked and hijacked. The evidence pointed to the incorporation group attempting to wreak havoc, according to Hayden.

After making police and FBI reports and spending \$500 for computer cleanups, Hayden continued in opposition. Hayden also advised her cell phone and home phone services were simultaneously shut down.

Hayden and other opposition members questioned why wasn't there a Public Notice regarding this Sky Lake HOA meeting and whether anyone in the NE MAC area can be excluded from attending the meeting. Hayden advised that after they contacted the OMB Director, the meeting was cancelled.

Hayden was advised that her concerns would be discussed with the Advocate.

Alicia Rook

Rook voluntarily agreed to be interviewed and provide information concerning the investigation. After being advised of the allegation, Rook advised that she agreed with all the information supplied to COE by Hayden. According to Rook, the majority of the property and business owners in the NE MAC area are rightfully concerned with what appears to be a forced “pick your poison situation” of incorporate or be annexed.

According to Rook, those opposed to incorporation do not want to pay higher taxes for less service, lose County oversight, diminished quality of life, wasted taxpayer dollars that should be spent on infrastructure and environmental concerns, and the precipitation of a countywide economic collapse.

Rook advised, “there is no doubt in our minds what is afoot is rezone, demolish, and redevelopment.” This all happened with the incorporation of Sunny Isles Beach with developers paying individuals to use a variety of methods to force people out, even threatening them with lawyers.

Rook and Hayden concluded that NE MAC engaged in unbridled Sunshine Law violations. Rook was unable to provide a specific incident but felt that if the members of one board are involved with another board of the same type there is bound to be collusion.

According to Rook, NE MAC members Friedman, Gopman, and Morton are also members of the Committee to Incorporate NE Dade. There are also board members that belong to their HOA. Rook feels that incorporation matters are discussed at those meetings, even though they are closed to the public. Rook was asked by COE investigators to provide any evidence that may show these unauthorized communications or any documents that would substantiate the allegations. Rook was also reminded that before incorporation could take place it must be voted on by the residents.

Rochelle Matza

Rochelle Matza (Matza) voluntarily agreed to be interviewed and provide information concerning the investigation. After being advised of the allegations, Matza advised that she is a member of the Sky Lake HOA and the NE MAC. Matza advised that she is very aware of the conflicts that could arise and is very careful not to discuss, or be present, when any incorporation topic is discussed outside of the NE MAC. Matza advised that if she feels unsure about any situation she would get clarification.

Lenny Feldman

Lenny Feldman (Feldman) voluntarily agreed to be interviewed and provide information concerning the investigation. After being advised of the allegations, Feldman advised that he is not a member of the NE MAC; he is HOA president. Feldman advised that any time a discussion about the incorporation comes up, he reminds the NE MAC members of the possible conflicts and they leave the meeting. Feldman advised that he is very aware of the conflicts that could arise and is very careful not to allow discussions or any incorporation topics unless the meeting is open to the public and no NE MAC members are involved. Feldman advised that he or anyone in the HOA ever prevented Hayden or Rook from attending.

Kenneth Friedman

Friedman voluntarily agreed to be interviewed and provide information concerning the investigation. After being advised of the allegations, Friedman advised that he is a member of the NE MAC, and the HOA. Friedman advised that he has never been approached by any other member of the NE MAC at any time to discuss the Incorporation. Friedman also stated that he does not discuss issues outside the NE MAC meetings or in the HOA meetings.

Glen Gopman

Gopman voluntarily agreed to be interviewed and provide information concerning the investigation. After being advised of the allegations, Gopman advised that he was never approached by any member of the NE MAC at any time to discuss the incorporation outside of the meetings. In fact Gopman advised that he is not a member of the HOA. Gopman also advised that he also has assisted MDC personnel with the budget, and is now the un-official Chairman of the budget committee.

Jorge Fernandez

Miami-Dade County Office of Management & Budget

Jorge Fernandez (Fernandez) voluntarily agreed to be interviewed and provide information concerning the investigation. After being advised of the allegations, Fernandez advised that he oversees some of the NE MAC activities and monitors their progress. Fernandez advised that on several occasions he has cautioned the MAC members not to discuss incorporation issues among themselves or outside the NE MAC. Fernandez advised that it is not unusual for him and other MDC employees to appear before different boards and HOA's, in order to provide updated information and answer questions that may be asked.

Document/Audio/Video Review:

1. Flyer showing date and time of Sky Lake HOA Meeting, 3/19/2014
2. Copy of Articles of Incorporation for "Committee to Incorporate Northeast Dade, Inc."
3. Updated roster of members of the NE MAC provided by MDC (Fernandez)
4. Minutes for the NE MAC Advisory Committee Meeting, 3/27/2014

Conclusion(s):

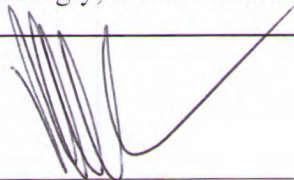
As a result of the interviews, and the review of the documents provided, it appears that Matza and Friedman are NE MAC members; Feldman and Gopman are not. Feldman is the President of the Sky Lake HOA and Gopman belongs to the budget committee of the HOA. From the information, gathered there is no evidence that anyone used their official position to obtain or disseminate any information regarding the incorporation. There is no proof that any violations of the Sunshine Law occurred. A further review of the documents show that the HOA meetings were open to the public and in fact according to Feldman, Rook and Hayden were allowed to attend.

The final decision on incorporation would lie in the hands of the voters in the area. The NE MAC has up to two years to collect and analyze information on what the impacts would be on services, study the tax base, and ponder what the potential city's budget would look like.

The NE MAC proposed a budget which will be discussed at future public meetings. There will be other meetings to discuss other incorporation matters, which will include two public hearings specifically held to get residents' input.

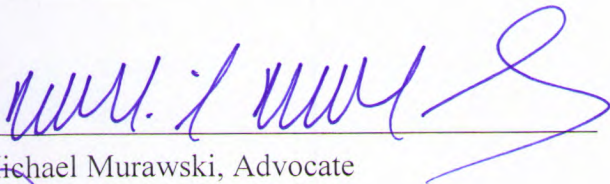
The Sunshine law does apply to the NE MAC, so if there are NE MAC members who are also sitting on the HOA, or other groups working on incorporation, their meetings should be open to the public, but there is evidence to show that on several occasions the members have been reminded about the conflicts and the one's involved have all been contacted and are aware.

All the above information was discussed with the Advocate Michael Murawski and after review he advised there are no violations related to the Conflict of Interest and Code of Ethics Ordinance. Accordingly, it is recommended that no further action would be taken.

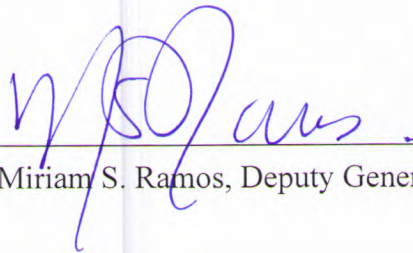


Breno Penichet, COE Investigator

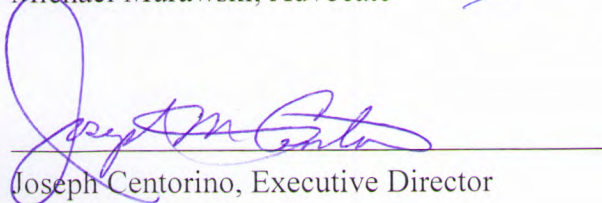
Approved by:



Michael Murawski, Advocate



Miriam S. Ramos, Deputy General Counsel



Joseph Centorino, Executive Director

12/8/14

Date