



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Nilda Olmo

Case: PI 17-24	Case Name: Galvin Newsletter	Date Opened: 06/25/2017	CASE CLOSED
Complainant(s): Stephanie Kienzle	Subject(s): Scott Galvin, Commissioner North Miami	Date: 8/21/17	

Allegation(s):

Stephanie Kienzle (Kienzle) submitted a public records request (PRR) to the North Miami City Manager's Office, requesting the recipient e-mail list of North Miami Commissioner Scott Galvin's (Galvin) email newsletter. Unable to obtain the list after a second PRR, she contacted the Miami-Dade Commission on Ethics & Public Trust via e-mail.

Relevant Law:

Miami-Dade County Home Rule Charter, Citizens Bill of Rights, Section (A) (3), *Public Records*. All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection and copying, consistent with the requirements of the State of Florida's public records laws, at reasonable times and places convenient to the public.

Investigation:
Interviews

On 06/14/2017, Kienzle made a public record request to obtain the recipients' e-mail addresses for Galvin's newsletter. Francisco Medranda, Public Records Liaison for the City of North Miami, responded to Kienzle's request advising her that the City was unable to provide Galvin's recipients list, because the City does not manage nor oversee Galvin's personal newsletter, therefore, it has no record of the requested list.

On 06/15//2017, Kienzle e-mailed a second request, copying Galvin, City Attorney Jeff Cazeau (Cazeau) and the Commission on Ethics Executive Director, Joseph Centorino, attaching a Florida Attorney General Advisory Legal Opinion (AG).¹

In response, Cazeau, advised Kienzle that the AG's opinion attached to her public record request was an *advisory* opinion and cited Butler v. City of Hallandale Beach,² in support of the City's response to her request.

Francisco L. Medranda
Office of the City Manager, Public Records Liaison

Medranda was interviewed regarding Kienzle's public record request. Upon receipt of the request on 06/14/2017, he contacted the city's Public Information Officer and was advised to contact Cazeau. Medranda followed up with Cazeau and responded to Kienzle the following day via e-mail. He informed Kienzle that Galvin's newsletter was not sent out by the City and since it was prepared and distributed by Galvin himself, they did not have his recipients list. However, Medranda told Kienzle that since most of the employees receive the publication, he could provide her with the City employees' e-mail list. Subsequently, that list was never requested.

Scott Galvin
Commissioner, North Miami

Galvin has served as a Commissioner for North Miami for the last 18 years. He mentioned that there were no intentional violations on his side, adding he created the personal newsletter approximately 17 years ago. The newsletter is strictly informative and sent out from his home computer, using his private e-mail address.

Galvin confirmed the City does not contribute or participate in the drafting or distribution of the publication, nor has any input in the selection of the articles and/or topics. Furthermore, he stated that although the newsletter relates to City information and events, meant to inform North Miami

¹ Florida Attorney General Opinion 2007-14, dated 02/27/2017.

² Butler v. City of Hallandale Beach, 68 So.3d 278 (Fla. 4th DCA 2011).

residents, it does not carry the City logo. Galvin reiterated the City is in no way involved with the newsletter. He mentioned he relied on the City Attorney's opinion, after being notified of Kienzle's public record request.

Jeff Cazeau
City Attorney, North Miami

Cazeau was interviewed by this Investigator. He recalled having been notified by Medranda regarding the public record request pertaining to Galvin's newsletter recipients' e-mail list. In response to Kienzle's request, Cazeau contacted Kienzle via e-mail on 06/15/2017, advising her that the 2007 Florida Attorney General legal opinion she was relying on was only an advisory opinion and cited instead to Butler v. City of Hallandale.³ Cazeau informed Kienzle that she was entitled to the newsletter itself but not the recipients' e-mail list.

Documents/Records Review:

All documents/records, not limited to the following, were reviewed by the COE staff.

- Scott Galvin's e-mail Newsletters.
- Florida Attorney General Advisory Opinion, AGO 2007-14.
- Butler v. City of Hallandale Beach, 68 So.3d 278 (Fla. 4th DCA 2011).

Conclusion:

After consultation with the ethics commission Advocate it was determined that there is no provable violation of the Citizens' Bill of Rights and this matter should be closed with no further action.

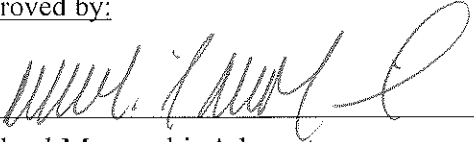
³ In Butler v. City of Hallandale Beach, the 4th DCA held that a list of recipients of a personal e-mail sent by the Mayor containing three articles that the Mayor wrote as a contributor to a local newspaper, was not a public record under Chapter 119 because the City played no role in the mayor's decision to write articles for the newspaper; in the identification of the written topics; in any control over the content of the articles; and, in the decisions regarding the means of distribution to recipients. Additionally, the email that the Mayor sent out was not intended to perpetuate, communicate, or formalize the City's business and, it was not made pursuant to law or in connection with the transaction of official business by the City.

(Signatures)

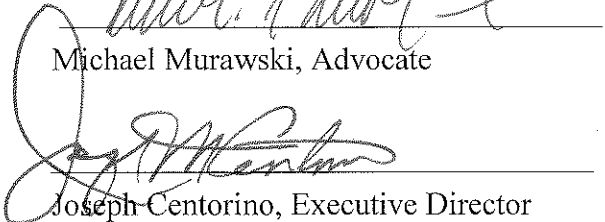


Nilda Olmo, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director

8/21/17

Date