

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

To: Michael Murawski, Advocate

From: Martha D. Perez, Staff Attorney

Date: July 17, 2017

Re: PI 17-27 - BCC's denial of opportunity to be heard (Citizens' Bill of Rights, Section 5)

Allegation

Esperanza "Hope" Reynolds, a resident of the Town of Miami Lakes, sent an email to the COE, attaching a document titled, "07-06-2017 Complaint from Town of Miami Lakes Residents (Residents)." The complaint alleges that the Residents attended the Board of County Commissioners (BCC) meeting held on July 6th and registered to speak on two items: 8A3 # 171370 and 8A4 # 171368.¹ The Residents were advised that they would not be able to speak on these items.²

The complaint goes on to question the sponsorship of the mentioned resolutions and the lack of notice provided to the Residents regarding the proposed resolutions. It concludes with an invitation to the COE to present ethics training in Miami Lakes.

The email also referred to an exchange between some of the Residents and Christopher Ferreira, Legislative Director to BCC Chairman E. Bovo. The Residents expressed their discontent at appearing to speak on an item but not being able to address the BCC. However, this was communicated to Mr. Ferreira *after the fact*, "on [their] way out..."

Analysis

The Residents' complaint alleges a violation of the County's Citizens' Bill of Rights, Section 5-Right to be heard: "...as the orderly conduct of business permits, any...person has the right to appear before the commission...for the presentation, adjustment or determination of an issue, request or controversy....[AND] ...matters shall be scheduled for the convenience of the public....Nothing...shall prohibit any...agency from imposing reasonable time limits for the presentation of a matter."

¹ These items refer to two Resolutions approving professional services agreements between the County (Airport) and private consultants. 8A3 is a resolution to approve an agreement between the County and T.Y. Lin Int'l; 8A4 is a resolution to approve an agreement between the County and Ricondo & Associates, Inc.

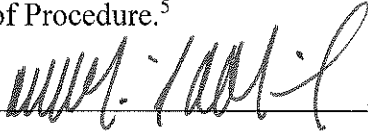
² The complaint, as alleged by Esther Colón, states that Mayor Manny Cid would be recognized to speak on the item. Mayor Cid approached the BCC, accompanied by two Council members and informed the BCC that he was there with a group of residents. It was apparent that all involved had deferred to the Mayor to speak as the elected official.

In other words, the Residents assert that they were denied the right to speak on an Agenda item.

A review of the applicable Miami-Dade County's Rules of Procedure (ROP) reveals the following:

- 1) The resolutions in question involve the approval of contracts for consultant services at MDAD between the County and two private companies.
- 2) These procurements were addressed before the Economic Development & Tourism Committee (ED&T Cttee.) which met on 6/15/2017.³
- 3) Pursuant to ROP 4.01(d)(6-7), the Committee is tasked with conducting public hearings or providing reasonable opportunity for the public to be heard.⁴
- 4) The ED&T Cttee. meeting on 6/15/2017 and agenda were published in the Clerk of the Board website which publishes the dates and times of all County committee/board meetings.
- 5) The ED&T Cttee. forwarded the items in the mentioned resolutions to the BCC with favorable recommendations.
- 6) The County's Rules of Procedure provide that: "When a public hearing relating to an ordinance or **resolution** is conducted before a **commission committee** as authorized herein, **no additional testimony from the public shall be permitted** except by a majority vote of those members present before final action is taken; however, debate by commissioners shall be allowed." *Rule 5.05(f), Part 5, Conduct of Meetings: Agenda, MDC BCC Rules of Procedure*
- 7) There are instances where the public has an opportunity to be heard on "non-public hearing propositions" pursuant to Section 6.06 of the County's Rules of Procedure. This section is quite lengthy but it excludes public hearing *before the BCC* on "any situation where there has been a previous public hearing or reasonable opportunity to be heard on a proposition..."

The public's right to be heard on the referenced resolutions (County MDAD procurements) was afforded on 6/15/2017 at the ED&T Cttee. meeting. Pursuant to the Rules cited herein, no additional testimony from the public was permitted at the BCC meeting on 7/6/2017. Consequently, the denial of the public input at the BCC meeting on the referenced items is supported by the County's Rules of Procedure.⁵

Approved by Michael Murawski  /Date: 7/18/17

³ The ED&T Committee is comprised of Commissioner Sosa (Chairwoman), Commissioner Souto, District 10 (Vice-Chair), Commissioners Barreiro, Heyman and Moss (Members). Its jurisdiction covers the Aviation Department.

⁴ The Meeting Agenda for the Committee's June 15th meeting includes a section titled, "Public Hearing."

⁵ There is no evidence in this instance to suggest carelessness or indifference toward the Residents. Clearly, Residents should be kept apprised of any County actions which impact their Town. To that end, the County's website <http://www.miamidade.gov/govaction/lsubmain.asp> affords all County residents the opportunity to sign up for agendas online which will inform them about the items appearing for discussion and public hearing at the different committees, thereby providing them with sufficient notice of all pending issues affecting the County and their Town. Additionally, Residents should expect the Town's communication venues to keep them informed on these issues.