



Miami-Dade Commission on Ethics & Public Trust
Investigative Report

**CASE
CLOSED**

Investigator: Robert Steinback and Susannah Nesmith

Case No.: K18-22

Date: 3/18/19

Complainant: Anonymous

Subject/Case Name: Stephanie Bruder

Date Opened: March 21, 2018

Date Submitted: March 11, 2019

Allegation(s):

The Ethics Commission (COE) received information alleging that Bay Harbor Islands Mayor Stephanie Bruder (Bruder) was chronically behind in making payments to the Village Water and Sewer Authority on apartment houses owned by her in-laws. The highest outstanding balance exceeded \$100,000, that was uncollected by the Village until someone inquired about the situation, and Bruder began paying down the amount due. The information alleged that Bruder exploited her position as Councilwoman to gain favorable treatment for her in-laws.

Relevant Law:

Miami-Dade Conflict of Interest and Code of Ethics ordinance Section 2-11.1 (g): Exploitation of official position prohibited. *No person [covered by this section] 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:

It was alleged that Stephanie Bruder, a councilwoman for Bay Harbor Islands (who later became the Village's mayor), had run up delinquent water and sewer bills on properties owned by her in-laws. At one point, the delinquent bills reached \$112,721, and averaging \$70,592 a month outstanding over a 50-month span. These outstanding balances were far in excess of any other active water service account in the Village. By the time this case information was brought to the attention of the COE, Bruder had signed an agreement to repay the delinquent bills and reduced the combined outstanding balance to \$43,722. In addition, as of the date of this report, the entire delinquent amount has reportedly been repaid and the accounts are current. [See "Calculations" section, below]

At issue is whether Bruder, exploited her official position as a Village elected official to compel favorable treatment from the Village by being allowed to run up such a substantial debt to the Village without incurring any penalty or interest charges or facing service cutoff. A rough calculation of the amount saved by Bruder over a 49-month period beginning in April 2014 is \$26,191 using an imputed interest rate of 9 percent [the amount written into the original Village code but never enforced], or \$8,730 using an interest rate of 3 percent [the penalty now authorized

under the revised Village].

The above-referenced agreement to repay the delinquent water and sewer charges was signed by Genia Bruder, Stephanie Bruder's mother-in-law and the legal owner of the buildings (via corporate entities), and then-Village Manager Ronald Wasson (Wasson) on February 26, 2018, about a month before this COE case was opened. In it, Genia Bruder agreed to pay the Village \$75,000 before March 31, 2018, and then between \$12,000 and \$15,000 every month thereafter until the balance was current. Village records affirm that Stephanie Bruder, has for years, been the effective manager of the properties and the Village's principal contact regarding them, and has assumed responsibility for the financial operations of the buildings. Bruder in sworn testimony denied playing these roles, despite the documentary evidence to the contrary.

Village representatives maintained that Bruder received no special treatment with regard to water and sewer service delinquencies vis- a-vis any other resident; indeed, testimony from Village officials and official records confirm that the Village has never charged late fees, service charges or other penalties to any of its delinquent residential water and sewer customers [until a recent Council resolution changing Village policy], and in only one case in recent years actually shut off a customer's service (this account was a single-family home). In a few cases, including the Bruder properties, the Village has filed liens against the properties of delinquent residents. The Village has never foreclosed on a water service lien in the absence of the sale or refinancing of the property.

The Village's long-observed policy of not charging any form of penalty for delinquent water and sewer service accounts has, for the most part, had minuscule financial impact on Village finances because the delinquent accounts in almost every case have been relatively small. The glaring exception has been the Bruder family properties.

This investigation's focus has been on two Bruder family-owned properties, the Rexleigh Apartments, 9881 East Bay Harbor Drive, a 20-unit building, and the Kingsley Arms Apartments, 9291 East Bay Harbor Drive, a 24-unit building.

The owners of each property, respectively, are Rexleigh Apartments Inc., and Kingsley Arms Apartments Inc. Each corporate entity lists Genia Bruder as the sole officer/director.

Town officials – and Stephanie Bruder herself – in interviews with COE investigators deflected responsibility for allowing the Bruder accounts to run up such high outstanding balances in water and sewer charges without financial consequences.

Bruder told a COE investigator in sworn testimony that she had “only recently” learned of the water and sewer billing problems at her mother-in-law's properties. She asserted that then-Village Manager Wasson first told her of the problem around February 2018.

This assertion is contradicted by the official record. On August 14, 2015, Village Billing Clerk Diatrice “Dee” Chestnut (Chestnut) sent Bruder a certified letter notifying her of “seriously past due water, sewer and solid waste bills.” Less than two weeks later, on August 25, 2015, the Village – at Wasson's direction – filed a claim of a lien on the properties.

Again, despite the above, Wasson, in sworn testimony to the COE on July 10, 2018, claimed not to have been aware of the unpaid charges until around the time this inquiry was opened in March 2018.

Wasson stated that responsibility for allowing the delinquency should rest with retired Village Financial Director Alan K. Short (Short). Short, in sworn testimony to the COE on January 4, 2019, stated that the Village had no policy for addressing large overdue water and sewer account balances other than to send letters to residents whose accounts were “eyeballed” as problematic, and to file liens.

He stated that it was Village procedure not to charge a financial penalty to any water and sewer account and that “it was handled that way before I became responsible for utility billing. As far as I knew there was no provision in the code for interest on unpaid balances.”

This assertion is contradicted by the Village Code. The existing Village code, in fact, did provide for a 9 percent charge on delinquent water service bills [Bay Harbor Islands Code of Ordinances, Sec. 20-7: “Interest at the rate of 9 percent per annum shall be added to the charges from the due date of the charges to payment.”], which evidently was never applied.

On October 10, 2018, the Village amended Sec. 20-7 providing for a 3 percent per annum interest rate which “shall be” assessed on water and sewer billings unpaid after 30 days beyond the due date and giving the Town Manager the authority to discontinue service after delinquency of 60 days.

Bruder propounded the position that she should not be deemed responsible for the outstanding water and sewer bills because she is not the owner of the properties. While this is technically true – the owner of the properties is understood to be her mother-in-law, Genia Bruder – investigation uncovered considerable documentary evidence that Bruder has effectively served as manager and primary contact for both the Village and for tenants of the buildings as far back as far as at least 2007. She has listed the properties as a source of income on her Form 1s several times, although she contested the notion of “income” in her COE interview. And when the Village reached an agreement to repay the indebtedness, it was with Stephanie Bruder, and it has been she who has been making the payments.

Though it seems clear that Bruder, by virtue of the extraordinary unpaid outstanding water and sewer debts she maintained for at least four years, garnered a substantial financial benefit, the investigation was unable to locate evidence that Bruder directly requested or demanded special treatment from Village officials.

Interviews

Interview **Melissa Cruz**, Bay Harbor Islands Finance Director, interview – June 22, 2018.

Cruz stated that the current outstanding water/sewer balances are \$35,512 for the Kingsley, \$16,932 for the Rexleigh. Cruz believed that another \$8,000 had been paid since the above figures were generated.

Cruz said she had only been in her job about six months. Previous CFO was Alan Short.

Assistant City Attorney Frank Simone said the Village has “never negotiated those [amounts] down” for any subscriber. Simone said one water service was shut off for a customer who owed \$152,000.

Simone said, "I think that the prior CFO didn't know there was an interest payment" built into the code. "No one was charged interest." He said the number of people who fell delinquent spiked during the recession. The Village never charged interest or a late fee charge. The only service shut down was Wendy Fong's property. Fong owed \$23,000.

Simone acknowledged that the late payers are "getting an interest-free loan." He said part of the problem is that there were three different water fees included on the same bill: storm water, sewer and water – but the bills are not broken up. Because of the 2008 financial crisis, the Village just wanted to collect the money owed, Simone said. All agreements were written to "please repay us."

Simone said the Village had missed out on funds. He stated that in 2008 "all of the buildings stopped paying." Liens eventually were filed, but "the town has never foreclosed on a lien," he said.

Interview **Ronald Wasson** (Wasson), Bay Harbor Islands Village Manager, July 10. 2018, in office.

Wasson said he has been the Village manager for 12 years. [Wasson subsequently retired from the Village to become City Manager for the City of Aventura].

He said he has no arrangement with Stephanie Bruder; but acknowledged a payback agreement signed with her mother-in-law... to pay \$75,000, and then make monthly payments of \$12,000 to \$15,000 thereafter, which works out to roughly 25 percent more than billings each month. The agreement is that failure to pay or alert the Village that a payment could be late, will result in water shutdown. Wasson said the payments have been made through July, and that the water/sewer bills should be caught up in about five months.

Wasson said Stephanie Bruder has no legal attachment to the properties.

Wasson said he did not know how the Bruders got into their predicament, though he noted that shortly after he started with the town in 2007, the 2008 recession hit. There were many foreclosures. A common situation was that a tenant would move into a property and pay the owner, but that owner wouldn't pay the water bill.

Wasson said the high delinquent accounts were brought to him by the Finance Director, who would tell him a particular account was getting out of hand. Wasson said he would call the delinquent clients personally. "We have the ability to call personally" because of the small-town character of BHI. He said delinquencies were often elderly people or people who had left on extended vacation.

Wasson claimed his aging percentage accounts are very low compared to other towns; he characterized it as "better than average."

Wasson said the Village practice of not charging late fees was not a result of declared policy. "It was just the practice when I came." Wasson claims he "came close" to shutting off the water for some accounts. He mentioned one account that was even more delinquent than the Bruders, reaching to nearly \$140,000, but that it is now being collected. "\$100,000 didn't happen overnight.... If I thought for once that they were trying to be slick, that was never an issue..."

Wasson said the hurricane in 2017 "threw things out of whack." He said that he contacted

Stephanie Bruder in February to say we “can’t hold it out any more.”

Wasson said nobody ever paid the 9 percent. “Through the history of this town, nobody ever paid the fee.” He said, “I think consistency is the key... [the situation is] truly no worse than for anyone in the town.”

Wasson said that section of the code goes back to the 1950s, was put in as a deterrent to make sure you paid your water bill. Wasson said he had only placed six liens during his time as city manager. He said the main reason for changing the code was to “streamline” it – presently there are different pay scales for water, sewer and storm water. He said the manager will still have flexibility.

Wasson said he only discovered Bruder’s delinquency just before Alan Short left. He didn’t know when that was, but presumably in the last year or so. Wasson said the new finance director “will be more proactive.” Wasson said, “it would have been helpful to know sooner.”

Interview **Stephanie Bruder** – November 20, 2018.

Bruder said she only recently learned of the water service bill problem at the buildings owned by her mother-in-law “around February” of 2018. Bruder stated that she did not know about the liens the Village placed on the buildings in Augusts 2015, even though the dunning letter signed by Chestnut was addressed to her.

Bruder stated that the repayment agreement signed in February 2018 was arranged by her husband (on behalf of his mother), and Village Manager Wasson.

Bruder also denied that she had managed the buildings for her mother-in-law in the past or earned any income from them. She said she put down the Kingsley Arms as a source of income on her Form 1s for several years because her husband held a car loan with the building.

Interview **Alan K. Short** (Short), retired BHI Finance Director, January 4, 2019.

Short, who was BHI Finance Director from 1995 through January 2018, stated that he was in charge of water and sewer billings for “the last 10 years or so” of his tenure.

Short stated that the Village had no formal policy for handling large overdue accounts, other than determining through “eyeballing” from accounts receivable reports which customers should receive letters demanding payment, or in problem situations, filing liens. The Village filed liens on the two Bruder buildings, he said.

Short stated that no liens were ever foreclosed, other than properties that were sold or refinanced. He also stated that in no cases was interest or other financial penalties charged to delinquent accounts and testified that he didn’t even believe the Village code ever provided for such charges – though it, in fact, did. Short stated that not collecting interest or other charges had been the Village’s practice since long before he was Finance Director. “That’s the way it was always handled,” he stated.

Short stated that in his 23-year tenure, he could recall only one customer whose water was ever shut off for non-payment, and that was a single-family residence.

Short stated that only he or Town Manager Wasson would have had the authority to make the repayment arrangement that was agreed to with Stephanie Bruder and added that he didn't recall doing so – implying that Wasson must have done so.

Short stated that at no time did anyone give him instructions to treat Bruder's accounts any differently than any other account in the Village.

Interview **Diatrice "Dee" Chestnut**, Bay Harbor Islands Billing Clerk, January 30, 2019.

Chestnut is the billing clerk for Bay Harbor Islands, since 1999. She receives payments. Her reports go to the Finance Director, now Melissa Cruz, formerly Alan Short.

Chestnut said she is familiar with the Bruder family. She acknowledged that the family delinquency once exceeded \$100,000, and said the Manager was aware of this.

Her handling of the delinquency was to make courtesy calls and write letters. She said liens were ultimately filed against the properties. Chestnut said Bruder had a repayment agreement, and that the account was now current. Chestnut said the property manager made payments, sometimes in cash for thousands of dollars, sometimes by check, typically cashier's checks.

Chestnut said that she made courtesy calls, "I don't ask for a reason for delinquencies." She said the Bruder wasn't a council person when she began calling her. She has called her since becoming a council person.

Documents/Exhibit Review:

- A copy of Bay Harbor Islands Code of Ordinances, Sec. 20-7, which authorizes a charge of 9 percent per annum for water and sewer accounts more than 30 days unpaid.
- A copy of the agreement signed by Genia Bruder and Ronald Wasson on February 26, 2018, in which Genia Bruder agreed to pay the town \$75,000 before March 31, 2018, and then between \$12,000 and \$15,000 every month thereafter until the balance is current.
- Monthly billing account history for Kingsley Arms and Rexleigh Apartments.
- Copy of certified letter from Village Billing Clerk Diatrice Chestnut to Bruder dated August 14, 2015, notifying her of "seriously past due water, sewer and solid waste bills."
- Copy of the lien filed by Ronald Wasson on August 25, 2015 against the Rexleigh and Kingsley Arms apartments.
- Copies of Stephanie Bruder's Form 1 for 2006, 2008, 2011, 2012, 2015, 2016, listing the Kingsley Arms as a primary Source of Income.
- Numerous tenant complaints, police incident reports, eviction and other actions for the Kingsley Arms and Rexleigh Apartments documenting Stephanie Bruder's active management role, including:
 - a) February 2009: Bruder signed as owner or authorized officer or manager of the Rexleigh for Notice of Commencement for concrete repair work.
 - b) March 2014: Town Recording Secretary Alba Chang notified Bruder of the need to provide a Business Tax Receipt fee for the Rexleigh.
 - c) March 2014: Village police report from Bruder asking police assistance in closing down an unauthorized wedding party at the Kingsley Arms.

d) June 2015: Bruder is listed as “calling party” for Village police responding to abandoned dogs call.

e) August 2015: Bruder contacted by Miami-Dade Fire Rescue regarding violation at the Kingsley Arms

f) August 2015: Bruder contacted by Village Clerk Siegel regarding tenant mold complaint.

g) August 2015: Bruder listed as “calling party” for Village police responding to abandoned dogs call.

h) January 2016: Bruder signed eviction complaint as “agent for landlord.”

i) March 2016: Bruder signed notarized affidavit of costs regarding eviction.

j) July 2016: Bruder identified as contact person for resident fighting eviction.

k) October 2016: Bruder contacted Village Clerk Siegel regarding unlighted premises complaint.

l) November 2016: Bruder listed as “owner” by Village police responding to leak complaint at Kingsley Arms.

m) January 2017: Village Clerk Siegel contacted Bruder regarding non-working elevator complaint at Kingsley Arms.

n) March 2017: Bruder signed an eviction complaint

o) June 2017: Bruder listed as “plaintiff or attorney” in eviction action.

p) December 2017: Bruder listed as “plaintiff or attorney” in eviction action.

q) August 2018: Bruder copied with engineering report on Kingsley Arms.

r) September to October 2018: Bruder participated in text discussions regarding tenant complaints at properties.

s) November 2018: Bruder communicated with Miami-Dade Fire Rescue regarding fees and items purchased for repairs.

■ SunBiz records for Rexleigh and Kingsley Arms Apartments.

■ Miami-Dade Property Appraiser’s Office reports on Rexleigh and Kingsley Arms Apartments.

Calculations

This report examined a 49-month period of outstanding balances for the Rexleigh Apartments and the Kingsley Arms Apartments, both beginning on April 30, 2014. During those periods, the Rexleigh carried an average monthly delinquent water and sewer service balance of \$33,247. During the same period, the Kingsley Arms carried an average monthly delinquent balance of \$37,342. The calculations follow:

Rexleigh Apartments

2014 (9 months): Total -- \$ 190,280 /9 = \$21,142 average monthly outstanding balance

2015: Total -- \$397,490 /12 = \$33,124 average monthly outstanding balance

2016: Total -- \$411,834 /12 = \$34,320 average monthly outstanding balance

2017: Total -- \$483,999 /12 = \$40,333 average monthly outstanding balance

2018 (4 months): Total -- \$178,769 /4 = \$44,692 average monthly outstanding balance

49-month totals, Rexleigh: \$1,662,372 /49 = \$33,926 average monthly outstanding balance

x.09/12 = monthly estimated unpaid interest = \$254.45

x 49 months = total “benefit” = **\$12,468**

Kingsley Arms

2014 (9 months): $\$217,052 / 9 = \$24,117$ average monthly outstanding balance

2015: $\$502,275 / 12 = \$41,856$ average monthly outstanding balance

2016: $\$492,072 / 12 = \$41,006$ average monthly outstanding balance

2017: $\$499,255 / 12 = \$41,605$ average monthly outstanding balance

2018 (4 months): $\$119,093 / 4 = \$29,773$ average monthly outstanding balance

49-month totals, Kingsley Arms: $\$1,829,747 / 49 = \$37,342$ average monthly outstanding balance

$x.09/12 =$ monthly estimated unpaid interest = $\$280.06$

$x 49 =$ total "benefit" = **$\$13,723$**

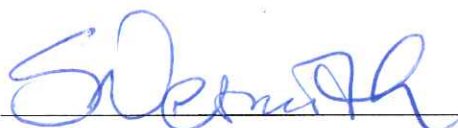
Both properties, estimated savings vs. 9 percent per annum: $\$12,468 + \$13,723 =$
 $\$26,191$

The calculation above was repeated using a 3 percent per annum interest charge, for an estimated savings for the two properties of **$\$8,730$** .

Conclusion:

After consultation with the Ethics Advocate, it was decided that this matter should be closed with no further action. While the investigation determined that Bruder's mother-in-law did run up a sizeable, delinquent water bill account for her properties, the evidence is insufficient to prove that Ms. Bruder used her official position to arrange for the interest free payment plan to bring the water account up to date. The Village administration apparently never charged anyone interest for delinquent water bills.


Robert Steinback, COE Investigator


Susannah Nesmith, COE Investigator

Approved by:


Michael Murawski, Advocate


José Arrojo, Executive Director