



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case: PI 18-07	Case Name: Gabriel Groisman voting conflict allegation, Bal Harbour	<u>Date Open:</u>	<u>Date Closed:</u>
			CASE
Complainant(s): Babak Raheb	Subject(s): Mayor Gabriel Groisman	Jan. 30, 2018	CLOSED
		Date: _____	3/13/18

Allegation(s):

Mr. Raheb alleges that Bal Harbour Mayor Gabriel Groisman had incurred in a possible voting conflict with regard to a special taxing district known as the "security district," claiming Groisman should have recused himself from voting on or discussing a recent item.

Mr. Raheb further claimed that because the mayor lives within the special taxing district in a home owned by Groisman's father-in-law, that he should not be allowed to vote on any items that could potentially affect the amount of taxes paid by homeowners in that district.

Mr. Raheb advised that Mayor Groisman's father-in-law owns half a dozen properties in the district, and as a result Groisman would be taking action on a matter that could benefit a family member in possible violation of the Miami-Dade ethics code.

Mr. Raheb further contends that the taxing district was not properly created, and should have been approved by the Miami-Dade County Commission.

Relevant Ordinances:

Miami-Dade County Code, Sec. 2-11.1(d), titled *Further prohibition on transacting business with the [Village]*, states in applicable part, Subsection (b)(1), that "no person ... shall vote or participate in any way in any matter presented to the [Council] if said person has any of the following relationships with any of the persons or entities, which would be or might be directly or indirectly affected by any action of the [Council] ... or ... if in any instance the transaction or

matter would affect the person ... in a manner distinct from the manner in which it would affect the public generally.”

Miami-Dade County Code, Sec. 2-11.1(n), titled *Actions prohibited when financial interests involved*, states in applicable part, that “no person ... shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest” as defined in Sec.4.03 of the Miami-Dade County Charter.

Miami-Dade County Code, Sec. 2-11.1(g), *Exploitation of official position prohibited*, stating in applicable part that no person ... “shall use or attempt to use his official position to secure special privileges or exemptions for himself or others ...”

Investigation:

Interviews

Babak Raheb, complainant

Feb. 1, 2018

Mr. Raheb advised in a telephone interview that he had knowledge and information relating to possible violations of the Miami-Dade ethics code.

Mr. Raheb alleges that Bal Harbour Mayor Gabriel Groisman had incurred in a possible voting conflict with relationship to a special taxing district known as the Security District, claiming Groisman should have recused himself from voting on or discussing a recent item.

Mr. Raheb further claimed that because the mayor lives within the special taxing district in a home owned by Groisman’s father-in-law, that he should not be allowed to vote on any items that could potentially affect the amount of taxes paid by homeowners in that district.

Mr. Raheb advised that Mayor Groisman’s father-in-law owns half a dozen properties in the district, and as a result Groisman would be taking action on a matter that could benefit a family member in possible violation of the Miami-Dade ethics code.

Mr. Raheb further contends that the taxing district was not properly created, and should have been approved by the Miami-Dade County Commission. He said that as a result of this district he pays an extra \$2,700 per year in taxes.

He further alleged that Mayor Groisman has a potential conflict as it relates to Flamingo Way LLC, the operator of the “Yacht Basin” located within the special taxing district, and that Mayor Groisman has refused to disclose the alleged conflict. He further questions whether the mayor belongs to the Bal Harbour Civic Association and stated this was another potential conflict of interest involving the mayor and his family’s financial interests.

Mr. Raheb was asked to provide a written summary of his allegations, and to reference any section of the Miami-Dade ethics code that he feels might be applicable. He was advised that the definition of “immediate family” is not the same for the County’s ethics code when

compared to the state ethics code, which he was referencing during the interview. He said he would provide a summary and return it for further review by COE staff.

On Feb. 21, 2018, Mr. Raheb argued that, since market value rent for the mayor's home is approximately \$15,000, this creates what amounts to a "business relationship" between the mayor and his father-in-law, Simon Falic, as his actual or de facto landlord.

He further stated that, last night at a council meeting, he again attempted to ask the mayor if he or his father was a member of the civic association and the mayor did not respond.

Ramiro Inguanzo, assistant village manager

Village of Bal Harbour, FL

Feb. 16, 2018

Mr. Inguanzo advised that he was aware of the issues raised by Mr. Raheb, noting that Raheb raised concerns about a possible voting conflict involving the mayor at the December council meeting. He said the Village's legal counsel, Robert Meyers, issued an opinion that Mayor Groisman did not have a voting conflict with respect to the agenda item in question. Inguanzo attempted to contact Mr. Meyers but Mr. Meyers was unavailable at the time.

Mr. Inguanzo said Mr. Raheb's concerns surrounded the so-called "Milestone Agreement" between the Village and a newly formed Civic Association for the approximately 300 homes located within a closed community or security district west of Collins Avenue. He noted Collins divides the Village between the coastal condominiums and single family homes on the other side, along with some multi-family low rise housing mixed in.

He took the COE investigator for a tour of the closed community, pointing out the mayor and Mr. Raheb's homes as well as the "yacht basin" where a private company (Flamingo Way LLC) operates a marina. He said the mayor's father-in-law owns several other homes in the community, and that they are all occupied by family members.

Mr. Inguanzo noted that Mr. Raheb has a frequently antagonistic relationship with the Village and a number of his neighbors. He advised that Mr. Raheb sued the Village at one point, and that, as part of that agreement, Raheb agreed not to challenge the validity of the security arrangement. He said he would provide a copy of the settlement agreement.

COE also spoke to Village Clerk Dwight Danie, and requested copies of the Milestone Agreement and other relevant documents, which Danie agreed to provide.

Email contact and conversation with Village Attorney Robert Meyers

On Feb. 21, 2018, an email was sent to Bal Harbour Village Attorney Robert Meyers requesting information about any opinion he issued relating to a potential voting conflict by Mayor Groisman. Mr. Meyers responded on Feb. 22, and stated over the phone that the main village counsel is now Susan Trevarthen, also of Weiss Serota.

He said he was aware that Ms. Trevarthen has discussed the matter with Mayor Groisman on

several occasions, and that, based on the information provided to her, it was her opinion that he did not have a conflict.

An email was sent to Ms. Trevarthen on Feb. 22 requesting information about any opinion provided to Mayor Groisman about his alleged or potential voting conflict.

Susan Trevarthen, Village Attorney
Bay Harbour Village
Feb. 22, 2018

Ms. Trevarthen said she has discussed the issue with Mayor Groisman on multiple occasions over the past 18 months, noting the Civic Association was party to litigation between the Village and the private yacht club operator. The litigation was settled last December.

Trevarthen stated that, in her opinion, any decision to recuse the Mayor from participating in discussing or voting on issues relating to the security district would have to weigh the fact that the mayor is elected to make such decisions, not just for the Village, but especially for the residents of the security district since that is his electoral district. She noted that the Village, despite its small scale, is divided into geographic districts and Mayor Groisman is the elected official for that district, which is comprised of about 300 households. "It's his district," she said. "He's elected to represent everybody behind that gate."

Ms. Trevarthen said there's nothing in the Milestone Agreement that could affect the millage rate for property owners within the security district. She said she does not know all the particulars but understands that the mayor's home is owned by family and that the family owns a number of other homes within the security district. She said she has no knowledge as to whether the mayor is a member of the new Civic Association, but stated that, as far as she knows, he is not an officer in the Civic Association as the officers have been identified as a result of the lawsuit that was settled late last year with the marina operator.

With respect to the historical context, Trevarthen stated that, initially only members of the yacht club could live in the community and the yacht club discriminated against blacks and other minorities. She said that in the 1980s, the Village created a security district and that a special assessment was levied against property owners, but that the purpose of the Milestone Agreement was to create a framework to transfer control to the homeowners.

Ms. Trevarthen said that, based on her understanding of the facts and even considering that the mayor's extended family may own more than 1 percent of the homes in the district, she still does not believe that a voting conflict exists. "I've looked at it. I've investigated it, I do not perceive it as a conflict of interest, and the mayor has proceeded on that basis."

Gabriel Groisman, Mayor
Bay Harbour Village
Email: Gabriel@Groismanlaw.com
Feb. 23, 2018

Mayor Groisman was advised as to the issues raised by Mr. Raheb, and was asked about his involvement, if any, with the Civic Association. He advised that he represents the entire gated community as its elected official and that, because of this, he would not seek to serve on the association in any leadership or managerial capacity to avoid a potential conflict. "I'm not on the board of the Civic Association or the management," he said. "That would make no sense. My district is the gated community."

With respect to the Milestone Agreement, Mayor Groisman stated "this doesn't uniquely affect me," saying the agreement would affect him in the same fashion as any other resident of the security district. He said Mr. Raheb previously filed an ethics complaint against him because his family is located near the yacht basin and that complaint was dismissed. "This is an even broader scope," he said, with respect to this latest allegation of a conflict.

"If I do something that benefits one homeowner, it affects all the homeowners the same," he said. He noted that he is presently involved in setting mileage rates for the entire district, saying that Mr. Raheb has not challenged him as having a conflict on this issue. He said that, while it is true that his father in law owns the property he lives in and that he has extended family throughout the district, he said that he is not himself a property owner.

"I'm not a member (of the Civic Association)," he said. "And I don't know if I even can be since I'm not a homeowner." He called the allegation of a voting conflict "ridiculous."

Document/Audio/Video Review:

COE reviewed Form 1 statements of financial interest for Mayor Groisman for the years 2014, 2015, 2016. They showed his primary source of income was his legal practice, Gabriel Groisman P.A., and services provided through the firm of Coffey Burlington. The forms listed the mayor's home address as 191 Bal Bay Drive, but note that he does not own any property. A review of property records for the mayor's home address, retrieved from the Miami-Dade County Property Appraiser's website at <http://www.miamidade.gov/propertysearch/#/> identifies the owners of 191 Bal Bay Drive as Simon and Jana Falic.

A further review of property records shows that Simon Falic owns or co-owns four other homes within the same private community in Bal Harbour.

Video of the Jan. 30, 2018, Bal Harbour Village council meeting shows that Mr. Raheb asked the council if any of its members were members of the civic association. He claims the association is an "illegal entity" and stated that he was not a member of the association, even though he lives within the security district. He specifically asked Mayor Groisman if he was a

member or if the owner of his home was a member, contending that if he or his landlord were members of the association that, in his view, the mayor would have a legal conflict.

COE reviewed a copy of Village resolution No. 2009-709 regarding a settlement between the Village and Mr. Raheb of a lawsuit filed by Mr. Raheb dating from 2003 in Miami-Dade Circuit Court, case No. 03-21932 CA 23. The resolution was approved in April 2009. In the lawsuit, Mr. Raheb challenges the legitimacy of the special taxing district ("security district").

According to the terms of the settlement agreement ratified by resolution No. 2009-709, the Village agreed to pay Mr. Raheb \$10,000, plus \$25,000 from a private insurer, in exchange for the following terms as stipulated in Section 2.0, as excerpted below:

2.0 - PLAINTIFF'S STIPULATION AND SUPPORT. As part of the consideration for the Village to enter into the Agreement and in addition to the dismissal of the Lawsuit with prejudice as detailed in Section 7.0 below, Plaintiff hereby acknowledges the validity of:

- (i) - the Security District;
- (ii) - the assessments and liens imposed by the Village related to the Security District; and
- (iii) - the create, maintenance, and general operation of the Security District.

Plaintiff further agrees never again to challenge any future special assessment related to the Security District on the ground that the Security District (or its formation, creation, and maintenance, or the use of special assessments in general to support the Security District, are invalid, unconstitutional, or the like.


10.0 - NO OTHER ACTION. Plaintiff represent and warrants that to his knowledge, except for the Lawsuit, he has not filed any other court actions or other proceedings of any kind against Defendant Village concerning the subject matter of the Lawsuit. Plaintiff also agrees that he will not, directly or indirectly, participate in, advocate for, encourage or support in any way any future suit or challenge against the Village concerning the subject matter of the Lawsuit (the "Future Challenge Suit"). Plaintiff further agrees that if he violates this Section 10.0, or asserts any Claims released in Section 9.0 above, he will reimburse and indemnify Defendant Village for any expenses and legal fees incurred in defending the Future Challenge Suit or any suit or challenge arising out of these violations.

Bal Harbour Civic Association Milestone Agreement

COE also reviewed a copy of the Milestone Agreement dated Jan. 30, 2018, between Bal Harbour Village and the Bal Harbour Civic Association for the purpose of creating a homeowners association that could assume the responsibilities of the "security district," and allow the Village to turn over the management of the district by 2027. The "milestones" are the specific terms of the agreement and a timetable for their implementation.

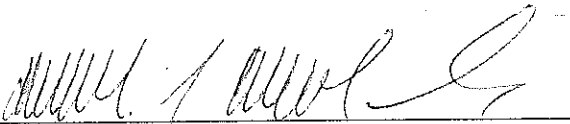
Conclusion(s):

After discussion with the Ethics Advocate it was determined that this matter would be closed with no further action. Many of the issues Mr. Raheb complains of are outside the jurisdiction of the Ethics Commission. Moreover, it does not appear that the Mayor has a voting conflict with regard to the security district. The Mayor himself is not a property owner within the area voted upon by him within the district in question. The fact that some family members may be property owners in the district would not create a voting conflict under the circumstances based on the size of the Village, the size of the district, as well as the fact that the Mayor was elected to represent that particular area.

 3/14/18

Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate

 3/13/18

Joseph Centorino, Executive Director