



Miami-Dade Commission on Ethics & Public Trust

Report of Investigation

Investigator: Susannah Nesmith

Case: PI18-09	Case Name: North Bay Village Commission	Date Open: 2/20/2018	Date Closed:
Complainant(s): Eddie Lim	Subject(s): The Village Commission	CASE CLOSED	

Date: 3/16/18

Allegation(s):

The Village Commission, with the help of the Village Attorney, improperly removed the Vice Mayor's title from Eddie Lim and gave it to another Commissioner, and the Commission is operating outside the Sunshine Law.

Relevant Law:

Sec. 2-11.1 Code of Ethics

Investigation:

Interviews:

On Feb. 20, 2018, this investigator interviewed North Bay Village Commissioner Eddie Lim (Lim) who explained that his complaint was against the council for stripping him of his Vice-Mayor title and the Village Attorney for helping them do it. He said "I think the three remaining commissioners are working behind closed doors."
He said he had no proof of his claim, but that it was clear that "there was collusion."
This investigator explained to Lim that the interpretation of the Village Charter did not fall within the jurisdiction of the Commission on Ethics. Neither did alleged Sunshine Law violations. He was advised of his option to take the Commission to court to get a judge to review

the interpretation of the Charter or to contact the State Attorney's Office if he believed there had been a Sunshine Law violation.

On Feb. 20, 2018, this investigator interviewed North Bay Village attorney Norm Powell (Powell). He said that he relied on Sec. 3.05 B of the Village Charter and the previous opinion of former North Bay Village Attorney Robert Switkes (Switkes). That opinion was how Commissioner Lim was elected Vice Mayor in January 2016 after Dr. Hornsby was appointed to fill a vacancy on the Commission.

Mr. Powell said he believed Switkes interpreted the Charter too narrowly because Switkes was of the opinion that the Commission could appoint a new Vice Mayor when it effectively became a new "full commission body" – each time there was an election, or a new member was appointed.

"He construed the appointment process as a run-off."

Powell, on the other hand, believes the Charter is silent on when the Commission can appoint a new Vice Mayor, so the Commission can do it as often as every meeting if it wants to.

But he advised the Commission that the precedent that had been set when Lim was appointed Vice Mayor certainly allowed the Commission – now a new Commission because Dr. Hornsby had been removed and Laura Cattabriga had been appointed in his place.

Powell said Charter Sec. 3.07 F did not preclude the Commission from appointing a new Vice Mayor even if the Vice Mayor hadn't died, resigned or been removed from office.

Document(s) Reviewed:

3.05. - Mayor; Vice-Mayor.

A.

The Mayor shall preside at meetings of the Commission, shall be recognized as head of Village government for all ceremonial purposes, by the governor for purposes of military law, for service of process, execution of contracts, deeds and other documents, and as the Village official designated to represent the Village in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein.

B.

The Commission, at the first regularly scheduled Commission meeting after all runoff elections have taken place and a full Commission body is sworn into office, shall elect a vice mayor by at least three (3) affirmative votes. The vice-mayor shall act as Mayor during the absence, disability or death of the Mayor.

3.07. - Vacancies; forfeiture of office; filling of vacancies on the Commission.

F.

In the event of the death, resignation, or removal of the Vice Mayor, the Commission shall, by majority vote, elect one (1) of the Commissioners to serve as Vice Mayor.

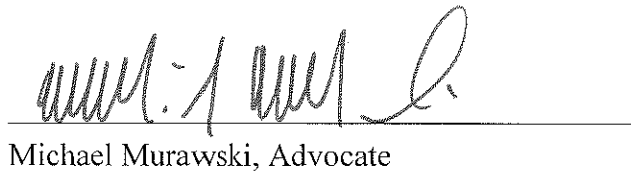
Conclusion:

After discussion with the Ethics Advocate, it was determined that there were no issues involved that fell within the jurisdiction of the Ethics Commission and that this matter would be closed with no further action.

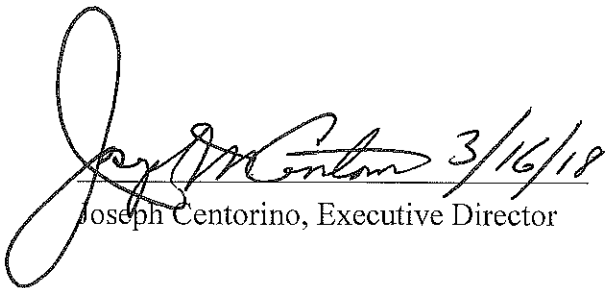


Susannah Nesmith, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director