



Miami-Dade Commission on Ethics & Public Trust

Report of Investigation

Investigator: Susannah Nesmith

Case: PI18-20	Case Name: Public Records	Date Open: 4/17/18	Date Closed:
Complainant(s): Lee Jacobs	Subject(s): Public Records from Transit	CASE CLOSED Date: 5/23/18	

Allegation(s):

County employees have delayed providing public records and ultimately provided incomplete records.

Relevant Law:

Citizens' Bill of Rights A3
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 April 20, 2018, this investigator spoke by phone with Lee Jacobs. He explained that he had filed a public records request in mid-March and still hadn't gotten any documents. He was looking for the lease of county land that changed its intended use from affordable housing to a mixed-used, market-rate. He said the property is designated for affordable housing in the comprehensive plan of the city of South Miami, where he sits on the Planning Board.

Mr. Jacobs had first requested the records from the Property Appraiser's Office on March 23,

2018. He was told that office wasn't the custodian of that record and that he should try the Recording Index. He was later sent to the Internal Services Department, which told him it had no such records. He was finally sent to the Transit Department, which is the department that owns the property he is inquiring about.

Transit initially told Mr. Jacobs that they don't handle public records requests for records maintained by the Property Appraiser's Office, apparently misunderstanding that he was directed to Transit after initially requesting records from the Appraiser's Office. Mr. Jacobs has suffered through a series of misunderstandings like this during his entire quest to locate one simple lease agreement.

Mr. Jacobs persevered and finally got some of the records he had requested on April 19. But because he had asked for all lease agreements on the property from 1998 to 2018, he felt his request had not be completed. The most recent lease he received was from 2001.

Document(s) Reviewed:

The various public records requests that Mr. Jacobs has filed for the property, each of which specifies exactly what property he is interested in, by folio number, and by the name of the current lessor and the former lessor. The requests are specific to that property and narrow in their scope, requesting only the lease agreement.

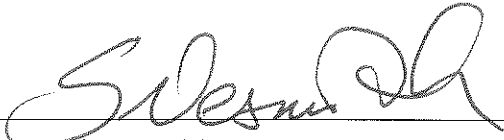
A review of news articles about the property Mr. Jacobs is interested in revealed that the lease was amended in 2015 as part of settlement negotiations between the county Transit Department and the leaseholder. The lease was sold in 2016.

This investigator located the Assignment of Lease executed in 2016 in the Miami-Dade Recording Index, reflecting when the lease was sold. The Assignment of Lease explains that the original lease of the property was signed in 2001 and up until the date of the assignment had been amended four times, most recently in October 2015.

This investigator located the agenda packet that was provided to Commissioners on Oct. 20, 2015 regarding the settlement of a lawsuit filed by the lessor of the property in 2007. This packet included the amendment to the lease that the settlement is contingent on.

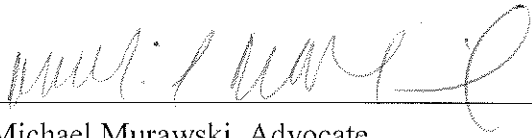
Conclusion:

After consultation with the Ethics Advocate it was determined that no further action would be taken in this matter, due to the lack of evidence of any intentional violation of the public records laws. It remains a matter of concern, however, that the County did not adequately respond to the records request made by the complainant. This memo will be forwarded to the Director of the Transit Department to address the failure of that office to accommodate a simple public record request, with the expectation that the department will take appropriate remedial action.

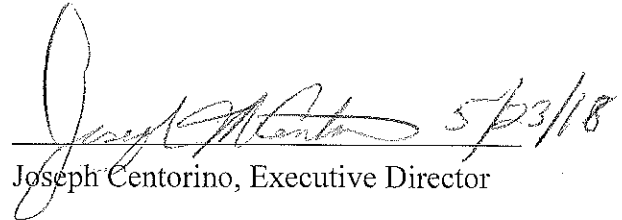


Susannah Nesmith, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director