



Miami-Dade Commission on Ethics & Public Trust
Report of Inquiry

Investigator: Sylvia Batista

Case:	Case Name:	<u>Date Opened:</u>	<u>Closed</u>
PI18-036	City of Doral Officials and staff members,		
Complainant(s): Henry Salazar and Brakes Express USA Corp. d/b/a Multi Parts International Corp.	Subject(s): Exploitation of official position and nepotism.	08/06/18 CASE CLOSED Date: <u>10/22/18</u>	

Allegation(s) and Background:

Complainant Henry Salazar (Salazar), by and through his attorney Robert C. Dominguez, filed a notice of claim against all City of Doral elected officials, and numerous staff members involved in processing his application for an occupational license and certificate of use for a light mechanic shop in the City of Doral.

In the notice, Salazar informed that he chose a location in Doral for his mechanic shop from three units available for rent (Units 7751, 7753, 7757 NW 53rd Street). Salazar advised that he was informed by Ingrid Balza (Balza), the Chief Licensing Officer of Doral that the three units qualified for the zoning needed for his business. Balza told Salazar at the time that he did not need to make any modifications such as structural, electrical or plumbing in order to open his business at any of the units, and that all three units required Occupational Licenses and Change of Use certification. Balza provided Salazar with an application and list of the requirements for the permit. In November 2017, Salazar entered into a lease agreement with property owners, Camilo and Charilyn Rodriguez (the Property Owners), for Unit 7753.

Salazar informed that Unit 7757 was leased to a new tenant, Alberto Perez (Perez), who planned to sell forklift parts and repair services. Salazar learned that Perez had obtained the

same type of permit that Salazar had applied for within two (2) weeks while Salazar had been waiting for the permit for over nine (9) months. Salazar inquired with Perez as to the reason for his quick acquisition of the permit, and was told by Perez that he knows "Carlos the Mayor" referring to City of Doral Mayor Juan Carlos Bermudez. Salazar said that Perez obtained the Change of Use Certification and the Occupational License within thirty (30) days of the application. Salazar added that Perez obtained the permit from the City without having the required signature of the property owners on the applications, nor meeting any of the requirements the City demanded from Salazar.

Salazar asked the City for an explanation with regard to the quick turnaround time for Perez's permit. Salazar alleged that at this point the City staff began to alter public records to cover their negligence and to justify the different treatment of the two applicants.

Salazar said that his investors pulled out of the project and he has lost over a million dollars due to the City's discriminatory and negligent practices. As of the date of Salazar's complaint, Doral continues to demand that Salazar comply with additional requirements in order to be approved.

Salazar advised that he presented all necessary documents for the Change of Use and Occupational License to Balza, who rejected the application and gave Salazar a list of additional requirements. Salazar's permitting process was further prolonged by the new requirements imposed by Balza.

Salazar advised that he reported the situation and what he believed to be the fraudulent conduct to the City Manager, Edward A. Rojas (Rojas). Rojas confessed to Salazar that he was married to Balza.

As of the day this matter was initiated, the City has not granted the required licenses and permits for Salazar's business to operate.

An inquiry was initiated by the COE to determine the validity of the allegations.

Relevant Laws:

The Conflict of Interest and Code of Ethics Ordinance, Sec. 2-11.1(g) Exploitation of official position prohibited.

No person included in the terms defined in Subsections (b) (1) through (6) and (b) (13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself 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.

Florida Statutes, Sec. 112.3135, sets forth the Nepotism Policy adopted by Miami-Dade County, which states that such policy,

- Prohibits appointment, employment, promotion or advancement, of specified relatives by any public official who is vested with or delegated the authority to appoint, employ, promote or advance, or is in a position to recommend an individual for appointment, employment, promotion or advancement.¹
- Although it prohibits public officials from employing or promoting their relatives, it does not prevent relatives from working together in the same department.

Interviews:

This investigator was contacted by Investigator Luis Mitjans (Mitjans) of the State Attorney's Office (SAO) who advised that Salazar's complaint had been delivered to the SAO and assigned to him for handling. Mitjans advised that he had completed the investigation and would share his findings with this investigator. The following is a summary of the meeting with Mitjans.

08/17/18 - Luis Mitjans, SAO Criminal Investigator

Mitjans summarized Salazar's complaint and advised that his investigation was on Salazar's allegation of discrimination by fraudulent documentation by the City of Doral.

Mitjans explained that Salazar leased commercial property at 7753 NW 53rd Street in Doral intending to open a **light mechanic shop**. Salazar picked the location from three units which had the same legal uses according to Balza, and was told by Balza that he did not need to make any modifications in order to open his business there as the location was zoned for "light manufacturing" which includes light mechanical work. Balza told him that as long as he did not have to make any structural modifications, then all he needed was a "Change of Use" permit.

Mitjans said that Salazar submitted his Change of Use Application with great detail about equipment and type of services he planned to perform on automobiles. When he turned in the application, he was told that based on his description of the equipment and services, he would need additional permits and inspections, including permits for plumbing, electrical, DERM, general mechanic, general floorplan, general building, fire inspections and a fire permit for a compressor. Salazar said that he feels that Balza misrepresented information when she told him that he only needed a Change of Use to find out later that he is facing a more complicated and costly process.

¹ Applicable relatives include: Father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, and half-sister.

Mitjans said that Salazar explained the situation with Universal Fork Lift Corporation, a business that was moving in next door to Salazar's unit at unit 7757. Owner, Alberto Perez, moved in and in two weeks had obtained a permit to conduct his business. When Salazar discovered this, he asked Perez how this was possible. Perez told Salazar that he was friends with "Carlos" but did not say it was the Mayor Juan Carlos Bermudez or Mayor Carlos Gimenez of Miami-Dade County.

Mitjans found that the reason Perez quickly obtained the permit to conduct his business was because he had operated Universal Fork Lift Corporation at 7861 NW 55 Street in the City of Doral, and had all the permits and certifications for his type of business, which was "light mechanic." Universal Forklift's new location is zoned for light mechanics so nothing changed. Perez applied for Change of Use Certificate to "forklift wholesale parts" which was quickly approved. The City has no ordinance involving requirements for forklift businesses as they have for automotive business. Mitjans explained that Perez' situation was different from Salazar's. On his permit application Salazar wrote that his business would be for the sale of wholesale auto parts and automobile service. It was the "automobile service" use that complicated matters for Salazar. The City of Doral has an ordinance (78-148) which has 10 criteria for obtaining a permit for "automobile service." The same is not applicable to forklift service which is Perez' business. Forklifts are not considered vehicles. Salazar did not understand that his business required a more complicated permitting process than Perez's business because the two business were not the same. Salazar still does not accept this fact.

As of the present time, the City has not issued the required permit for Salazar's business to operate. However, Councilman Pete Cabrera offered to issue the permit after Salazar filed his complaint, but the offer was rebuffed by Salazar.

As far as the allegation that Balza had altered the tax receipt form from Universal Forklift to reflect that it was a heavy-duty business in order to circumvent the more rigorous permitting process assigned to Salazar did not make sense in that the information on Perez' unit 7757 that was altered reflecting the use was not needed and was probably a result of human error.

On the nepotism allegation, Mitjans explained what he was told by City Manager Rojas that he met Balza while working at the City and they subsequently married. Rojas did not hire Balza. Rojas was later promoted to the position of City Manager, which is where he is now. Balza is in the same position as she was when she got married, which is Chief Licensing Officer. Pursuant to Mitjans, the City of Doral understands that City Manager Rojas is responsible for all city employees including Balza.

09/14/18 - Daniel Espino, City Attorney, City of Doral -

Daniel Espino said that he decided to look into the matter brought by Henry Salazar because Salazar made some serious allegations. The allegations presented by Salazar are so wrong that it has taken time to piece together replies to his accusations.

Espino explained that Salazar wanted to open an automobile repair business, but had no idea what he was doing. Despite the advice given to him by City officials, he was not able to get it done in order to get his permit.

Espino said he has heard that Salazar allegedly has ties with the former Mayor of Doral. This situation may be political retribution. First, Salazar is told that the zoning is correct for the location, but has to file for a change of use. Elizabeth Alvarez, the Planner from P&Z makes the majority of the representations to Salazar, yet he goes after Balza who only spoke to him once.

Salazar writes into the application for certificate of use comparing himself to the neighbor's business. Perez's business is very different from a full-blown auto repair shop. The forklift shop is selling parts and any service is ancillary.

At some point Salazar made an allegation saying that the City is making alterations to records without the property owners' authorization. On another property Salazar alleges that there was a change of use and for some reason the address folio number was wrong.

According to Espino, it was clear from the beginning that Salazar had to forget the fork lift business and focus on what he has to do to open a car service shop. Mayor Carlos Gimenez would be the one with the biggest problem with an auto shop because he heads over DERM.

Salazar and his attorney are trying to exert political pressure. They believe that with enough "palanka" they can get it done.

The bay (unit) next door to Salazar's bay was slated for warehouse use when the forklift person (Perez) came in to distribute forklift parts that he has sold from this spot. Perez had the right zoning. Because one day Salazar saw Perez assembling a forklift, he concluded that Perez was doing repair work, which he was not. At the end of the day all of these things are smoke screens put up by Salazar to get people on his side.

Espino stated that the City Manager should not have taken the meeting with Salazar. The Manager should not have spoken to him.

Balza is a licensing officer in the Planning & Zoning Department. Espino said he doesn't know if she supervises anyone. There are two supervisors over her in the department, the Assistant Planning & Zoning Director and the Director. Balza's two supervisors are supervised by the Deputy City Manager. The Deputy Manager oversees Balza's annual personnel review and the entire department. Espino advised that, yes, the City Manager sometimes gets involved in licensing matters.

Espino agreed to provide the COE investigator with his advisory opinion regarding the issue of possible nepotism due to the City Manager working with his wife. Espino is also writing a letter in response to Salazar's 7/30/18 notice of claim from his attorney.

Espino also provided a copy of a June 6, 2014 opinion from the law firm of Weiss, Serota, authored by former Ethics Commission Executive Director, Robert Meyers, which addressed

the nepotism issue concerning Rojas and Balza. The opinion states that the Doral City Manager does not possess the authority to promote or advance his spouse because she does not report to him and is not evaluated by him. Any promotion, advancement or other favorable action taken to benefit her rests exclusively with the P & Z Director, not the City Manager. The fact that the P & Z Director reports to the City Manager does not create a nepotism problem as long as the Manager plays no role in any matter affecting his spouse's employment in the Planning and Zoning Department.

09/21/18 – Edward Rojas, City Manager, City of Doral –

On Friday, September 21, 2018 this investigator took a verbal statement from Rojas at his office in the City of Doral.

Rojas advised that he met with Salazar regarding the allegations made against City officials and staff members about his permitting process. During their meeting Salazar started to talk disapprovingly of Elizabeth Alvarez, the Planner from the Planning & Zoning Department. Salazar then changed to criticizing Balza. Salazar extensively criticized Balza which led him to think that he knew that they were married since the bulk of his interaction had been with the Planner, Alvarez.

Rojas advised that after Salazar discussed the damages that he allegedly incurred, he said terrible things about Balza. That is when he told Salazar that he is married to Balza. Rojas said that he was trying to keep the discussion professional.

Rojas advised that Balza, his wife, answers to the Planning Director and Assistant Director. They all answer to the Deputy City Manager and at the end of the evaluation process, they all answer to him. The Planning Director evaluates Balza. The Planning Director discusses Balza's evaluation with the Deputy Planning Director. After the Planning Director evaluates Balza, the Deputy City Manager looks at the evaluation.

Rojas advised that he does not get involved in the evaluation unless the person is a department director. Each department director does the evaluation of its department employees. In large departments like Police, the person who is the immediate supervisor does the evaluation. At some point the evaluation filters down to the Deputy City Manager and then to him. Rojas said that he promotes mid-level management. The City Charter holds him responsible for everybody.

Rojas advised that where his wife is concerned, he does not get involved. Balza's evaluation stops with the Deputy City Manager. Rojas said that he does not want anyone to question the handling of his wife's evaluation or any promotion that she may get. Rojas said that he even stopped having lunch with her on the second floor. When the City did a compensation study and determined pay ranges, he stayed out of her position's range.

Rojas advised that Balza has been the only licensing person in Planning & Zoning. Licensing is a division within Planning & Zoning. Balza has a clerk assigned to help her. Rojas was the Director of the Building Department before he was promoted to City Manager.

Documents Reviewed:

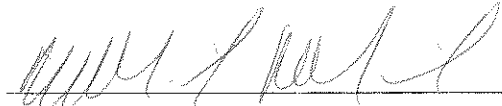
- 07/30/18 - Notice of Claim/Henry Salazar and Multi Parts International Corp. vs. City of Doral from Attorney Robert Dominguez addressed to City of Doral elected officials and various staff members who were involved in complainant's failed permitting process. Also reviewed attached Exhibits 1 thru 12.
- 06/18/18 – Salazar's Permit Application for Change of Use, classified as Change of Occupancy;
- 03/21/18 – Certificate of Use and Occupancy for the proposed use of selling wholesale auto parts and installations;
- 03/21/18 – Local Business Tax Receipt Application for the sale and installation of brakes and suspension parts;
- 01/23/18 – Miami-Dade Fire Rescue Department Inspection Report for Perez's business, Universal Forklift Corp.;
- 02/01/18 – Commercial Lease between the Property Owners and Perez;
- 02/02/18 – Certificate of Use and Occupancy for Universal Forklift;
- 01/19/18 – DERM Application for IW5 Permit, to operate industrial or commercial potential sources of pollution for Universal Forklift;
- 01/24/11 – Marriage License of City Manager Edward Rojas and Balza;
- Balza's Record of valid Florida Driver License;
- 08/15/18 – E-mail from Salazar to SAO Investigator Mitjans regarding a conversation with Councilwoman Fraga;
- City of Doral Organizational Charts;
- 06/06/14 – Legal Memorandum from Doral City Attorney Robert Meyers, Esq. on nepotism question regarding City Manager Edward Rojas and P&Z Chief Licensing Officer Ingrid Balza,
- 06/10/14 – Announcement that the City approved Edward Rojas as the new City Manager; and
- 06/28/18 – Local Business Tax Receipt Detail for Universal Forklift reflecting an incorrect folio number.

Conclusion:

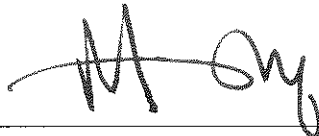
After discussion with the Ethics Advocate it was determined that there is insufficient evidence to sustain any ethics violations against any Doral officials in this matter, accordingly, this matter is closed with no further action.


Sylvia Batista, COE Investigator

Date: 10/27/18


Michael Murawski, Advocate

Date: 10/22/18


Jose J. Arrojo, Executive Director

Date: 10/22/18