



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case: PI 18-057	Case Name: South Miami Citizens' Bill of Rights complaint	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s): Antoinette Fischer	Subject(s): South Miami elected officials and City Attorney	Nov. 15, 2018	CASE CLOSED

Date: 12/24/18

Allegation(s):

Ms. Fischer alleged during a telephone conversation with COE Executive Director Jose Arrojo that she was improperly denied the opportunity to speak at a duly noticed public meeting in possible violation of the Miami-Dade County Citizens' Bill of Rights.

Relevant Ordinances:

The Miami-Dade County Citizens' Bill of Rights states in applicable part, Subsection (A)(5), titled *Right to be Heard*, that "any interested person has the right to appear before the Commission or any municipal council or any County or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved ..."

Investigation:

Interviews

Antoinette Fischer, complainant

Nov. 28, 2018

Ms. Fischer advised that she had been denied the opportunity to speak at a duly noticed public meeting held at the City of South Miami commission chambers relating to a workshop or forum about the Downtown Business District and its economic difficulties. She advised that it was not a regular City Commission meeting, but a special workshop or forum.

“It was open to the public but only business owners were allowed to speak,” Ms. Fischer recalled. “... We were told as a group that only the business owners could speak ... Every elected official and city administrator was there.”

Ms. Fischer said the event took place sometime before the City’s previous election cycle in February 2016. She said she would attempt to find out from the City Clerk’s office when the meeting took place and copies of any materials or agendas distributed at that time.

She further advised that then City Commissioner Gabriel Edmond was the person who told her that she would not be allowed to speak. She said others were present, but could not recall who else might have been similarly denied an opportunity to speak at the event.

She said she was upset that City Attorney Tomas Pepe was present and didn’t instruct the elected officials to allow residents to speak. She said she later spoke to Edmond and that he apologized for what happened. “He realized he was wrong. He actually apologized to me. He said, ‘I know that was wrong. We’ll have another workshop for residents like yourself.’”

Ms. Fischer said she was mollified by the commissioner’s apology and didn’t complain to the ethics commission sooner, but added: “But [the workshop] never happened.”

Ms. Fischer said she would forward any information obtained from the clerk’s office, but was advised this agency has a three-year statute of limitation for violations of the ethics code.

Ms. Fischer also expressed concerns about another, unrelated issue. She said Mayor Stoddard and other City elected officials were registered as members of a condominium board “acting in their private capacity” and not as public officials. She said the property in question was the Marshall Williamson Building, which had been used as a business incubator.

On Nov. 28, 2018, an email was sent to City Attorney Tomas Pepe to inquire as to the purpose of the Marshall Williamson nonprofit. Mr. Pepe was listed as the registered agent.

On Nov. 30, Mr. Pepe responded in an email as follows:

I double checked with the attorney who handled the conversion of the Marshall Williamson Building (property owned by the South Miami Community Redevelopment Agency CRA)) from fee simple to a condominium form of ownership. The reason for the change was to reduce the

amount of taxes that were being paid since some of the units in the building were rented to non-profits and start-up businesses. If any portion of the building is rented, whether to non-profits or for-profit entities, the tax is based on the value of the entire building, even though a large portion is used for the CRA and City functions. The only way to reduce the taxes was to form a condominium. Once formed, only the value of the unit rented would be taxed. The Declaration of Condominium requires the formation of a non-profit condominium association. The CRA remains the owner of all of the units and the common elements, unless it should sell more than a statutory % of the units. The CRA has no intention of selling any of the units at the present time. The officers and board of directors of the Association is comprised of the board of directors of the CRA. The CRA is an independent legal entity and its Commission/Board is statutorily comprised of all of the members of the City Commission, and at the option of the City when forming the CRA, two people residing within the jurisdictional boundaries of the CRA. The outside attorney who formed the Association gave the state financial services, Corporate Division, only the address of the CRA's main offices in the Marshall Williamson Building. Therefore, the annual notice of filing for the Association's annual report was to be mailed to the CRA's offices. Apparently the notice was not acted upon by the CRA Director and the Association was administratively dissolved. I have filed for reinstatement.

Document/Audio/Video Review:

On Nov. 28, documents were retrieved from the Sunbiz website at the following address: <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=OfficerRegisteredAgentName&directionType=Initial&searchNameOrder=STODDARDPHILIPK%20N160000119721&aggregateId=domnp-n16000011972-d26f08c2-79b1-4e61-8213-acc0b95ac6c8&searchTerm=Stoddard%20Phil&listNameOrder=STODDARDPHILIP%20L170000122240> relating to the Marshall Williamson Building Condominium Owners' Association. A copy of the incorporation records were added to the file.

Also found and added to the file were the Articles of Incorporation for the Marshall Williamson Building Condominium Association, located at 5825 SW 68th Street, South Miami, FL 33143. The records indicate the association was registered as a nonprofit corporation on Dec. 16, 2016, and that it was administratively dissolved Sept. 22, 2017.

On Nov. 28, 2018, Ms. Fischer sent a follow-up email to this investigator, alleging that a "fraudulent application" had been filed in connection with a church-run affordable housing project. She noted that another COE investigator, Frank "Jim" McGee, was present at the meeting where this application and her allegations were discussed. Her email was forwarded to Investigator McGee, assigned to monitor events in South Miami. This allegation is beyond the scope of this inquiry into an alleged violation of the Citizens' Bill of Rights. Furthermore, COE would not have jurisdiction over any such alleged fraudulent scheme.

On Nov. 29, COE contacted South Miami City Clerk Nkenga Payne and asked whether she recalled the business forum in question. She advised that she did not but said she would review the official calendar. A formal request was subsequently emailed to her attention.

A follow-up email was sent to Clerk Nkenga on Dec. 7 to inquire as to whether the date of the workshop could be identified and any related materials located.

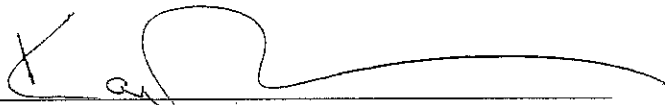
On Dec. 7, COE visited the South Miami official Website and determined that Gabriel Edmond is no longer a City Commissioner in South Miami.

Conclusion(s):

Given the inability to pinpoint when the alleged violation took place, the limitation on COE complaint filings based on transactions occurring three or more years prior, and since former Commissioner Edmond, is no longer in elected office, this matter is being closed with no further action. Efforts to determine the date through the City Clerk's office were unsuccessful.

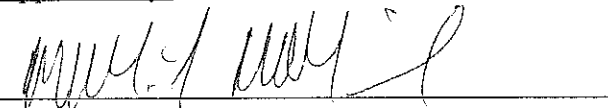
Additional matters raised by Ms. Fischer concerning a non-profit corporation formed by the City's elected leaders and an alleged fraudulent housing application are without merit or – in the case of the alleged fraud – not subject to COE's jurisdiction.

Accordingly, the results of this inquiry were submitted to the Ethics Advocate.

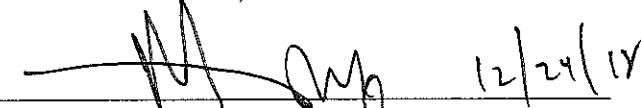


Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



Jose Arrojo, Executive Director