

STATE OF FLORIDA  
**COMMISSION ON ETHICS**  
P. O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709

# COMPLAINT

**1. PERSON BRINGING COMPLAINT:**

Name: Stephanie Kienzle Telephone Number: 305-335-2093

Address: 1653 NE 178 Street

City: North Miami Beach County: Miami-Dade Zip Code: 33162

**2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:**

Current or former public officer, public employee, candidate, or lobbyist - please use one complaint form for each person you wish to complain against:

Name: Frantz Pierre Telephone Number: 305-434-6418  
305-919-8201

Address: 2120 NE 171 Street

City: North Miami Beach County: Miami-Dade Zip Code: 33162

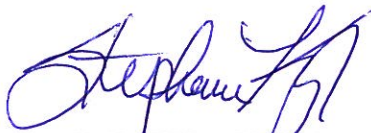
Title of office or position held or sought: Councilman, City of North Miami Beach

**3. STATEMENT OF FACTS:**

Please explain your complaint fully, either on the reverse side of this form or on additional sheets, providing a detailed description of the facts and the actions of the person named above. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. If you believe that a particular provision of Article II, Section 8, Florida Constitution (the Sunshine Amendment) or of Part III, Chapter 112, Florida Statutes (the Code of Ethics for Public Officers and Employees) has been violated, please state the specific section(s). Please do not attach copies of lengthy documents; if they are relevant, your description of them will suffice. Also, please do not submit video tapes or audio tapes.

**4. OATH**

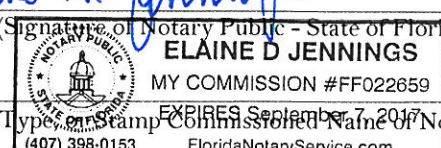
I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.



SIGNATURE OF COMPLAINANT

STATE OF FLORIDA  
COUNTY OF Broward

Sworn to (or affirmed) and subscribed before me  
this 25<sup>th</sup> day of March,  
20 14, by Elaine D. Jennings  
(name of person making statement)

  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ☒ OR Produced Identification ☐  
Type of Identification Produced: \_\_\_\_\_

**Jurisdiction of the Commission:** The Commission on Ethics has the authority to review and investigate complaints concerning possible breaches of the public trust (violations of the State's ethics laws) by public officers, public employees, and similar persons involved with state and local government in Florida, including Executive Branch lobbyists. Complaints about the actions of Judges should be brought to the Judicial Qualifications Commission, and complaints against attorneys in private practice should be made to The Florida Bar.

**Procedures followed by the Commission:** The Commission follows a three-stage process when it considers complaints.

The first stage is a determination of whether the allegations of the complaint are legally sufficient, that is, whether the complaint indicates a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation and all records relating to the complaint will become public at that time.

If the complaint is found to be legally sufficient, the investigative staff of the Commission will begin an investigation. The second stage of the Commission's proceedings involves this investigation of the complaint and a decision by the Commission of whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds that there is no probable cause to believe that there has been a violation of the ethics laws, the complaint will be dismissed and will become public at that time.

If the Commission finds that there is probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and enters the third stage of proceedings. The third stage requires that the Commission decide whether the law actually was violated and, if so, what penalty should be recommended. This stage requires a public hearing (trial) at which evidence would be presented.

**Attorney's Fees:** If the complaint is dismissed, the person against whom the complaint is filed can file a petition to have the complainant pay his or her attorney's fees, which will be awarded after a hearing if the Commission finds that the complaint was made with a malicious intent to injure the official's reputation, the complainant knew that the statements made about the official were false or made the statements about the official with reckless disregard for the truth, and the statements were material.

**Confidentiality:** The Commission cannot accept anonymous complaints and cannot keep the identity of the complainant or any witness confidential. A complaint, as well as all of the Commission's proceedings and records relating to the complaint, is confidential and exempt from the public records law either until the person against whom the complaint is made waives confidentiality, or until the complaint reaches a stage in the Commission's proceedings where it becomes public. The Commission's procedures on confidentiality do not govern the actions of the complainant or the person against whom the complaint is made.

**Legal Counsel:** Both the complainant and the person complained against can be represented by legal counsel during the Commission's proceedings.

**Other Information:** More information about the ethics laws and the Commission's responsibilities is available at the Commission's website, [www.ethics.state.fl.us](http://www.ethics.state.fl.us), which contains publications, rules, and other information.

State of Florida, Commission on Ethics  
Complaint against Frantz Pierre

**STATEMENT OF FACTS**

1. Frantz Pierre is an elected official who serves as a councilman for the City of North Miami Beach.
2. On March 4, 2014, at a council meeting, the Mayor and Council were scheduled to vote on a Resolution, which included building variances requested by the developer of a residential piece of property. See Agenda attached hereto and marked **Exhibit A.**
3. Resolution R2014-6 is attached hereto as **Exhibit B.**
4. Frantz Pierre recused himself from voting on R2014-6, stating "that he had to abstain from hearing this item due to a voting conflict." See Regular Meeting Minutes for the March 4, 2014 meeting attached hereto and marked **Exhibit C.**
5. On March 4, 2014, Frantz Pierre signed Form 8B - MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS, and stated that he abstained from voting on Resolution R2014-6 because, "I am in negotiation with the owner of the item to be discussed under R2014-6." Form 8B is attached hereto and marked **Exhibit D.**
6. On March 6, 2014, the Miami Herald published an article about the March 4, 2014 North Miami Beach council meeting. See attached article, which is marked as **Exhibit E.** The Herald reported that Frantz Pierre was thinking about buying the home, which is the subject of R2014-6, which will have an asking price of approximately \$4.2 million. The owner/developer of the property, however, denied to the reporter that he is currently in negotiations or has contracted with Frantz Pierre regarding the subject property.
7. The reporter noted that according to Frantz Pierre's most recent Statement of Financial Interests, which is attached here as **Exhibit F,** it is estimated that Pierre earns a combined salary of approximately \$83,000 per year as a Miami-Dade County public school teacher and City of North Miami Beach councilman.

**CONCLUSIONS**

- A. Mr. Pierre signed Form 8B claiming that he was then currently in negotiations with the owner to purchase the subject property; however, the owner of the subject property unequivocally denied Mr. Pierre's statement.

B. Mr. Pierre signed a Statement of Financial Interests (Exhibit F) on June 18, 2013, claiming that he has no additional income other than his combined salary of approximately \$83,000.00 per year. If this is true, he cannot possibly afford a \$4.2 million dollar home on that income alone, in which case it is my opinion that he committed perjury by signing Form 8B (Exhibit D)

C. Mr. Pierre signed Form 8B (Exhibit D) on March 4, 2014, claiming he was in negotiations with the owner to purchase a \$4.2 million dollar house. If this is true, then it is simply not possible for him to earn only \$83,000.00 per year, in which case it is my opinion that he committed perjury by signing the Statement of Financial Interests (Exhibit F).

D. Either Exhibit D or Exhibit F can be a factual document, but not both.

In any event, it is my opinion that Mr. Pierre has committed perjury.

I respectfully request that the Florida Commission on Ethics open an investigation of this matter and rule on the facts as presented herein.

Stephanie Kienzle

# Exhibit A



## CITY OF NORTH MIAMI BEACH

City Council Meeting  
Council Chambers, 2nd Floor  
City Hall, 17011 NE 19 Avenue  
North Miami Beach, FL 33162

**Tuesday, March 4, 2014  
7:30 PM**

Mayor George Vallejo  
Vice Mayor Beth E. Spiegel  
Councilman Anthony F. DeFillipo  
Councilwoman Barbara Kramer  
Councilwoman Marlen Martell  
Councilman Frantz Pierre  
Councilwoman Phyllis S. Smith

City Manager Ana M. Garcia  
Interim City Attorney Dotie Joseph  
City Clerk Pamela L. Latimore, CMC

### Notice to All Lobbyists

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Council.

## AGENDA

1. **ROLL CALL OF CITY OFFICIALS**
2. **INVOCATION - Reverend Dr. Marta Burke, Fulford United Methodist Church**
3. **PLEDGE OF ALLEGIANCE**
4. **REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA**
5. **PRESENTATIONS /DISCUSSIONS - None**
6. **PUBLIC COMMENT**

### **To All Citizens Appearing Under Public Comment**

The Council has a rule which does not allow discussion on any matter which is brought up under Public Comment. We are, however, very happy to listen to you. The reason for this is that the Council must have Staff input and prior knowledge as to the facts and figures, so that they can intelligently discuss a matter. The Council may wish to ask questions regarding this matter, but will not be required to do so. At the next or subsequent Council meeting you may have one of the Councilpersons introduce your matter as his or her recommendation. We wish to thank you for taking the time to bring this matter to our attention. Under no circumstances will personal attacks, either from the public or from the dais, be tolerated.

### **Speaking Before the City Council**

There is a three (3) minute time limit for each speaker during public comment and a three (3) minute time limit for each speaker during all public hearings. Your cooperation is appreciated in observing the three (3) minute time limit policy. If you have a matter you would like to discuss which requires more than three (3) minutes, please feel free to arrange a meeting with the appropriate administrative or elected official. In the Council Chambers, citizen participants are asked to come forward to the podium, give your name and address, and the name and address of the organization you are representing, if any. If you are speaking on a public hearing item, please speak only on the subject for discussion. Thank you

very much, in advance, for your cooperation.

### **Pledge of Civility**

A resolution was adopted by the Mayor and City Council of the City of North Miami Beach recognizing the importance of civility, decency, and respectful behavior in promoting citizen participation in a democratic government. The City of North Miami Beach calls upon all residents, employees, and elected officials to exercise civility toward each other. (Resolution Nos. R2007-57, 11/06/07 and R2011-22, 4/26/11)

**7. APPOINTMENTS - None**

**8. CONSENT AGENDA**

**8.1 Regular Meeting Minutes of February 18th, 2014 (City Clerk Pamela L. Latimore)**

**9. CITY MANAGER'S REPORT**

**9.1 Employee/Supervisor/Manager/Director of the Year Awards (City Manager, Ana M. Garcia)**

Employee of the Year Award: John Pollard  
Supervisor of the Year Award: Maria Perez  
Supervisor of the Year Award: Greg Williams  
Manager of the Year: Jackie Shakespeare  
Director of the Year: Paulette Murphy

**9.2 Landuse and Zoning Workshop, March 11, 2014, 6pm, Marjorie and William McDonald Center (City Manager, Ana M. Garcia)**

**9.3 Police Promotion and 100 Day Rollout, March 13, 2014, Jules Littman Theater (City Manager, Ana M. Garcia)**

**9.4 Use of City Logo for City Map Project - Approval Requested for Target Marketing (Asst. City Manager, Mac Serda)**

**9.5 Bus Bench Agreement Update (City Manager, Ana M. Garcia)**

**9.6 Garbage Bin/Advertising Board Update (Asst. City Manager, Mac Serda)**

**9.7 Water and Waste Water Systems Capital Improvement Projects Report for the years 2014 - 2032 (Interim Public Services Director, Barbara Trinko)**

**9.8 Discussion of E-Books in Library (Leisure Services Director, Paulette Murphy)**

**10. CITY ATTORNEY'S REPORT**

**10.1 Litigation List**

Litigation List.

**11. MAYOR'S DISCUSSION**

**12. MISCELLANEOUS ITEMS - None**

**13. BUSINESS TAX RECEIPTS - None**

**14. DISCUSSION ITEMS - None**

**15. LEGISLATION**

**15.1 Resolution No. R2014-6 (City Planner, Carlos Rivero)**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 6,255 SQUARE FOOT TWO-STORY SINGLE-FAMILY HOUSE ON A 9,761 SQUARE FOOT (0.22 ACRES) VACANT PARCEL OF LAND, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D)(9)(a) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THE MINIMUM ROOF PITCH REQUIREMENT OF THREE AND ONE HALF (3.5') FEET IN TWELVE (12') FEET TO PROVIDE FOR A FLAT ROOF TO BE UTILIZED AS AN OUTDOOR ELEVATED OPEN AIR LIVING SPACE, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D)(5) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THE MAXIMUM BUILDING HEIGHT OF THIRTY (30') FEET TO PERMIT THE INSTALLATION OF AN ELEVATOR STRUCTURE TO A MAXIMUM HEIGHT OF THIRTY-SIX AND ONE-HALF (36.5') FEET WHICH REPRESENTS A TWO (2%) PERCENT OF THE OUTDOOR ELEVATED OPEN AIR LIVING SPACE, WHEREAS THE REMAINING PORTIONS OF THE SINGLE RESIDENCE ADHERE TO THE MAXIMUM PERMITTED BUILDING HEIGHT OF THIRTY (30') FEET, ON PROPERTY LEGALLY DESCRIBED AS: LOT 21, BLOCK 6, EASTERN SHORES ADDITION, PLAT BOOK 65, PAGE 39, PUBLIC RECORDS OF MIAMI-DADE COUNTY. A/K/A 3141 N.E. 165th Street, North Miami Beach, Florida. (P&Z Board Meeting of December 9, 2013 and January 13, 2014).**

- 16. CITY COUNCIL REPORTS**
- 17. NEXT REGULAR CITY COUNCIL MEETING**
- 18. ADJOURNMENT**

Exhibit B

**RESOLUTION NO. R2014-6**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 6,255 SQUARE FOOT TWO-STORY SINGLE-FAMILY HOUSE ON A 9,761 SQUARE FOOT (0.22 ACRES) VACANT PARCEL OF LAND, AS PROPOSED; AND**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D)(9)(a) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THE MINIMUM ROOF PITCH REQUIREMENT OF THREE AND ONE HALF (3.5') FEET IN TWELVE (12') FEET TO PROVIDE FOR A FLAT ROOF TO BE UTILIZED AS A ROOFTOP TERRACE, AS PROPOSED; AND**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D)(5) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THE MAXIMUM BUILDING HEIGHT OF THIRTY (30') FEET TO PERMIT THE INSTALLATION OF AN ELEVATOR STRUCTURE TO A MAXIMUM HEIGHT OF THIRTY-SIX AND ONE-HALF (36.5') FEET WHICH REPRESENTS A TWO (2%) PERCENT OF FOOTPRINT, WHEREAS THE REMAINING PORTIONS OF THE SINGLE RESIDENCE ADHERE TO THE MAXIMUM PERMITTED BUILDING HEIGHT OF THIRTY (30') FEET, ON PROPERTY LEGALLY DESCRIBED AS:**

**LOT 21, BLOCK 6, EASTERN SHORES ADDITION, PLAT BOOK 65, PAGE 39, PUBLIC RECORDS OF MIAMI-DADE COUNTY.**

**A/K/A  
3141 N.E. 165th Street  
North Miami Beach, Florida**

**(P&Z Board Meeting of December 9, 2013 and January 13, 2014)**

**WHEREAS**, the property described herein is zoned R-1 Residential Single-Family Zoning District; and

**WHEREAS**, the Applicant requests site plan review and variances in order to construct a 6,255 square foot two-story single-family house on a 9,761 square foot (0.22 acres) vacant parcel of land located at 3141 N.E. 165 Street; and

**WHEREAS**, on December 9, 2013 the Planning & Zoning Board tabled the site plan and related variances; and

**WHEREAS**, on January 13, 2014 the Planning & Zoning Board recommended approval of the site plan and related variances, subject to all of the following conditions:

1. Application/supporting documentation. Construction of the proposed project shall be in conformance with the following (received and dated stamped by the Community Development Department 11.26.2013):
  - a. Survey, prepared by John Ibarra & Associates, dated 11.20.2013.
  - b. Plans prepared by Florida Architectural Services, Inc., dated 11.15.2013 including the following:
    1. Site Plan, Sheet A-1.
    2. Ground Floor Plan, Sheet A-2.
    3. Second Floor Plan, Sheet A-3.
    4. Roof Plan, Sheet A-4
    5. North/South Elevations, Sheet A-5.
    6. East/West Elevations, Sheet A-6.
    7. Houses with Flat Roofs and Roof Terraces Illustrations, Sheet A-7.
    8. Drainage Plan, Sheet D-1, dated 11.15.2013.
    9. Drainage Plan Cross Sections, Sheet D-2, dated 11.15.2013.
    10. Landscape Plan, Sheet L-1, dated 11.15.2013.
    11. Materials Board, dated 12.09.2103.
  - c. All representations and exhibits as prepared and provided to the Community Development Department as a part of the Application Submittal Package dated 10.02.13, as amended.
  - d. All representations proffered by the Applicant's representatives as a part of the review of the application at public hearings.
2. Restrictive covenant. Within 30 days of approval of the site plan, the property owner, its successors or assigns shall submit a Draft Restrictive Covenant for City Attorney review and approval outlining all conditions of approval as approved by the City Council. Failure to submit the Draft Restrictive Covenant within the specified time frame shall render the approval void unless said time frame is extended by the City Attorney after good cause as to why the time

frame should be extended. Upon City Attorney approval of the Restrictive Covenant, the Covenant shall be recorded by the Applicant with the Miami-Dade County Clerk of the Court. A copy of the must be submitted to the Department of Community Development.

3. Building permit plan submittal. When building plans are submitted for City Building Permit review, a cover sheet must be included on all submittal sets incorporating the City Council Approved Resolution.

4. Conditions for issuance of a building permit. Prior to the issuance of a building permit for the project, the property owner, its successors or assigns, shall satisfy the following conditions:

- a. Submit a copy of the Recorded Restrictive Covenant to the City Building Division with submittal of the Building Permit.
- b. All utilities, including but not limited to electrical, cable television and telephone must be located underground subject to the Director of Public Services review and approval.
- c. Any proposed docks, piers, moorings, etc shall be for the exclusive use of the current property owner and shall not be leased, sold or otherwise utilized by others. Live-a-boards of any water vessel shall be prohibited.
- d. All surface storm water shall be retained on-site, and shall not drain to the adjoining properties, right-of-way or the canal.
- e. Architectural/building details.
  1. All windows must have impact glass.
  2. All decorative details must be made of wood, stone, cast stone or similar materials and may not be made of foam.
- f. Rooftop limitations:
  1. No permanently mounted structural elements or similar structural components may be installed in excess of the maximum permitted height of thirty (30') feet, including but not limited to light poles, trellis, etc.
  2. Rooftop landscaping shall be permitted however, no landscape materials may exceed eight (8') in height above the railing for a maximum height of thirty-eight (38) feet.
  3. Temporary structural elements (i.e., umbrellas, etc) shall be permitted however such elements may not exceed eight (8) feet in height. All temporary elements not permanently fastened to the roof shall be removed in advance of hurricane events.
  4. No light fixture or poles may be installed or project illumination above the rooftop parapet.
- g. If the property owners, on either side of the subject property remove the existing six (6') foot decorative walls, the current property owner within thirty (30) days of removal shall submit building permit plans for the construction of a six (6') foot decorative 100 % opaque fence subject to all applicable Zoning Code requirements regarding the construction of the wall.
- h. Submit State of Florida Licensed Civil Engineer signed and sealed Paving, Grading and Drainage (PG&D) Plans for City Engineer approval including but not limited to the following:
  1. Percolation tests and drainage calculations.

2. The PG&D Plan must also be reviewed and stamped approved by DERM/DRER for water quality drainage review.
5. Prior to the issuance of the Certificate of Occupancy (CO), the property owner, its successors or assigns, shall install the property address on the proposed seawall (minimum four (4") inches in size) facing the canal.
6. The variances granted under the provisions of this Code shall automatically expire within one (1) year from the date of granting of a variance unless a City building permit has not been applied for.

**NOW, THEREFORE,**

**BE IT RESOLVED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** Site plan approval in order to construct a 6,255 square foot two (2) story single-family house on a 9,761 square foot (0.22 acres) vacant parcel of land, on property legally described as:

**LOT 21, BLOCK 6, EASTERN SHORES ADDITION, PLAT  
BOOK 65, PAGE 39, PUBLIC RECORDS OF MIAMI-DADE  
COUNTY.**

**A/K/A  
3141 N.E. 165th Street  
North Miami Beach, Florida**

is hereby granted subject to the following conditions:

1. Application/supporting documentation. Construction of the proposed project shall be in conformance with the following (received and dated stamped by the Community Development Department 11.26.2013):
  - a. Survey, prepared by John Ibarra & Associates, dated 11.20.2013.
  - b. Plans prepared by Florida Architectural Services, Inc., dated 11.15.2013 including the following:
    1. Site Plan, Sheet A-1.
    2. Ground Floor Plan, Sheet A-2.
    3. Second Floor Plan, Sheet A-3.
    4. Roof Plan, Sheet A-4
    5. North/South Elevations, Sheet A-5.
    6. East/West Elevations, Sheet A-6.
    7. Houses with Flat Roofs and Roof Terraces Illustrations, Sheet A-7.
    8. Drainage Plan, Sheet D-1, dated 11.15.2013.
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10. Landscape Plan, Sheet L-1, dated 11.15.2013.
  11. Materials Board, dated 12.09.2103.
  - c. All representations and exhibits as prepared and provided to the Community Development Department as a part of the Application Submittal Package dated 10.02.13, as amended.
  - d. All representations proffered by the Applicant's representatives as a part of the review of the application at public hearings.
2. Restrictive covenant. Within 30 days of approval of the site plan, the property owner, its successors or assigns shall submit a Draft Restrictive Covenant for City Attorney review and approval outlining all conditions of approval as approved by the City Council. Failure to submit the Draft Restrictive Covenant within the specified time frame shall render the approval void unless said time frame is extended by the City Attorney after good cause as to why the time frame should be extended. Upon City Attorney approval of the Restrictive Covenant, the Covenant shall be recorded by the Applicant with the Miami-Dade County Clerk of the Court. A copy of the must be submitted to the Department of Community Development.
3. Building permit plan submittal. When building plans are submitted for City Building Permit review, a cover sheet must be included on all submittal sets incorporating the City Council Approved Resolution.
4. Conditions for issuance of a building permit. Prior to the issuance of a building permit for the project, the property owner, its successors or assigns, shall satisfy the following conditions:
- a. Submit a copy of the Recorded Restrictive Covenant to the City Building Division with submittal of the Building Permit.
  - b. All utilities, including but not limited to electrical, cable television and telephone must be located underground subject to the Director of Public Services review and approval.
  - c. Any proposed docks, piers, moorings, etc shall be for the exclusive use of the current property owner and shall not be leased, sold or otherwise utilized by others. Live-a-boards of any water vessel shall be prohibited.
  - d. All surface storm water shall be retained on-site, and shall not drain to the adjoining properties, right-of-way or the canal.
  - e. Architectural/building details.
    1. All windows must have impact glass.
    3. All decorative details must be made of wood, stone, cast stone or similar materials and may not be made of foam.
  - f. Rooftop limitations:
    1. No permanently mounted structural elements or similar structural components may be installed in excess of the maximum permitted height of thirty (30') feet, including but not limited to light poles, trellis, etc.
    2. Rooftop landscaping shall be permitted however, no landscape materials may exceed eight (8') in height above the railing for a maximum height of thirty-eight (38) feet.
    3. Temporary structural elements (i.e., umbrellas, etc) shall be permitted however such elements may not exceed eight (8) feet in height. All temporary elements not permanently fastened to the roof shall be removed in advance of hurricane events.

4. No light fixture or poles may be installed or project illumination above the rooftop parapet.
- g. If the property owners, on either side of the subject property remove the existing six (6') foot decorative walls, the current property owner within thirty (30) days of removal shall submit building permit plans for the construction of a six (6') foot decorative 100 % opaque fence subject to all applicable Zoning Code requirements regarding the construction of the wall.
- h. Submit State of Florida Licensed Civil Engineer signed and sealed Paving, Grading and Drainage (PG&D) Plans for City Engineer approval including but not limited to the following:
  1. Percolation tests and drainage calculations.
  2. The PG&D Plan must also be reviewed and stamped approved by DERM/DRER for water quality drainage review.
5. Prior to the issuance of the Certificate of Occupancy (CO), the property owner, its successors or assigns, shall install the property address on the proposed seawall (minimum four (4") inches in size) facing the canal.
6. The variances granted under the provisions of this Code shall automatically expire within one (1) year from the date of granting of a variance unless a City building permit has not been applied for.

**Section 2.** A variance from Section 24-41(D)(9)(a) to waive the minimum roof pitch requirement of three-and-one half (3.5') feet in twelve (12') feet to provide for a flat roof to be utilized as a rooftop terrace, as proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 3.** A variance from Section 24-41(D)(5) to waive the maximum building height of thirty (30') feet to permit the installation of an elevator structure to a maximum height of thirty-six and one-half (36.5') feet, which represents a two (2%) percent of footprint, whereas the remaining portions of the single residence adhere to the maximum permitted building height of thirty (30') feet, as proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 4.** Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the applicant must apply for a master building permit from the City within one (1) year of the date of this Resolution or the site plan approval granted shall be deemed null and void

and the applicant shall be required to reinstate the site plan review process unless the term is extended administratively or by the City Council prior to its expiration.

**Section 5.** Pursuant to Section 24-176(C)(4)(a) of the Code of Ordinances of the City of North Miami Beach, any variance granted shall automatically expire if a permit has not been applied for within one (1) year from the date of this Resolution or, if the permit is issued, expires or is revoked pursuant to the Florida Building Code.

**APPROVED AND ADOPTED** by the City Council of the City of North Miami Beach, Florida at regular meeting assembled this \_\_\_\_ **day of March, 2014.**

ATTEST:

\_\_\_\_\_  
PAMELA L. LATIMORE  
CITY CLERK

\_\_\_\_\_  
GEORGE VALLEJO  
MAYOR

(CITY SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
DOTIE JOSEPH  
INTERIM CITY ATTORNEY

Sponsored by: Mayor and City Council

Exhibit C



**CITY OF NORTH MIAMI BEACH**

City Council Meeting  
Council Chambers, 2nd Floor  
City Hall, 17011 NE 19th Avenue  
North Miami Beach, FL 33162  
**Tuesday, March 4<sup>th</sup>, 2014**  
**7:30 PM**

Mayor George Vallejo  
Vice Mayor Beth E. Spiegel  
Councilman Anthony F. DeFillipo  
Councilwoman Barbara Kramer  
Councilwoman Marlen Martell  
Councilman Frantz Pierre  
Councilwoman Phyllis S. Smith

City Manager Ana M. Garcia  
Interim City Attorney Dotie Joseph  
City Clerk Pamela L. Latimore, CMC

**REGULAR MEETING MINUTES**

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**ROLL CALL OF THE CITY OFFICIALS**

The meeting was called to order at 7:50 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Beth E. Spiegel and Council Members Barbara Kramer, Frantz Pierre, Phyllis S. Smith, Marlen Martell and Anthony DeFillipo. Also present were City Manager Ana M. Garcia, Interim City Attorney Dotie Joseph, and City Clerk Pamela L. Latimore.

**INVOCATION** The invocation was delivered by Reverend Dr. Marta Burke

**PLEDGE OF ALLEGIANCE** was lead by Mayor and Council.

**REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA-** Added for discussion **14.1 Employment Terms for Interim City Attorney Dotie Joseph, Item 8.1 Regular Meeting Minutes of February 18<sup>th</sup> 2014**, withdrawn to be reviewed for possible corrections as per Councilwoman Smith.

**PRESENTATIONS/DISCUSSIONS –**

Mayor Vallejo opened the meeting for **PUBLIC COMMENT**.

City Clerk Latimore read the rules of public comment into the record. The following person(s) made comments on the record.

1. Chuck Cook, 1980 NE 175<sup>th</sup> St. North Miami Beach, FL
2. Rosaline Joseph, 1650 NE 11<sup>th</sup> Ave. North Miami Beach, FL
3. Richard Riess, 1123 NW 169<sup>th</sup> St, North Miami Beach, FL

Mayor Vallejo closed the meeting for **PUBLIC COMMENT**.

**APPOINTMENTS** – There were no appointments

**CONSENT AGENDA**- The item was pulled per Councilwoman Smith.

### **CITY MANAGER'S REPORT**

City Manager Ana Garcia announced the recognition of city employees for exceptional service with awards for their performance.

Assistant City Manager Mac Serda introduced Chief Engineer Karim Rossy who spoke about the performance and commitment of Employee of the Year award recipient John Pollard who also made comments accepting his award.

Information Technology Director Patrick Rosiak spoke about and introduced Maria Bonnier Perez and her many contributions to the City along with her tireless work ethic and cost savings in excess of \$100,000 with her mailroom reorganization.

City Manager Garcia and Assistant City Manager Serda spoke about and introduced Greg Williams who was presented with the Supervisor of the Year Award. Interim Public Services Director Barbara Trinka made comments outlining the service and commitment of Mr. Williams who accepted the award and thanked the City.

Leisure Services Director Paulette Murphy made comments recognizing Manager of the Year Award Jackie Shakespeare for her commitment and dedication to the City. Jackie Shakespeare thanked the Director and everyone else for the award and their support.

City Manager Garcia introduced and made comments praising the performance of Director Paulette Murphy who was awarded the Director of the Year distinction. Director Murphy made comments accepting the award and thanking everyone for their support.

### **City Manager's Report**

City Manager Garcia presented the following updates:

The Land Use and Zoning Workshop will occur on March 11<sup>th</sup> at 6:00 p.m. at the McDonald Center.

The Police Promotion and 100 Day Rollout will commence March 13<sup>th</sup> at the Littman Theater at 7:00 p.m.

Assistant City Manager Serda requested approval for the use of the City Seal on a foldout map produced by Target Marketing that will benefit the City with free advertising and promotion.

**MOTION to approve** the conditional use of the City Seal made by Councilwoman Smith seconded by Councilwoman Martell **(Passed 7-0)**

City Manager Garcia discussed the conditions of the bus benches in the City and the revenues generated through advertising.

Assistant City Manager Serda discussed updates in the contract with the vendor, including increased revenue, upgrades, and modernization of the bus benches and stops.

City Manager Garcia spoke about the garbage bin/advertising board expansion and the details surrounding the program.

Interim Public Services Director Barbara Trinko provided an update on water/waste infrastructure with a report that provided a detailed analysis and made recommendations based on their findings.

Leisure Services Director Murphy gave a brief description on E-Reader item and introduced library personnel Susan Sandness and Edenia Hernandez to elaborate. They explained the details of the proposed program and answered questions from Council.

**MOTION to adopt** the E-Reader Program made by Councilwoman Smith, seconded by Councilman Pierre **(Motion Passes 7-0)**

The City Manager finished her report informing Council that Saturday, April 12<sup>th</sup> will be the conclusion of the strategic planning session and that Friday is Eyes On N.M.B. and for further information to contact Assistant Director of Public Works Esmond Scott at 305.919.3746

#### **CITY ATTORNEY'S REPORT**

Interim City Attorney Dotie Joseph advised Council that a number of claims have been settled in excess of \$32,000 in favor of the City.

Interim City Attorney Joseph briefed Council of the status of the demand letter filed by her predecessor Darcee Siegel.

The Mayor queried City Clerk Latimore about the status of the passport office request and she updated Council the request was denied but that she is currently investigating other options and will keep Council abreast of all developments.

#### **Litigation List**

As of March 4<sup>th</sup>, 2014

**MAYOR'S DISCUSSION:** There was no Mayor's discussion.

**MISCELLANEOUS ITEMS:** There were no miscellaneous items before Mayor and Council.

**BUSINESS TAX RECEIPTS:** There were no Business Tax Receipts before Mayor and Council.

**LEGISLATION:**

**Resolution No. R2014-6 (City Planner, Carlos Rivero)**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 6,255 SQUARE FOOT TWO-STORY SINGLE-FAMILY HOUSE ON A 9,761 SQUARE FOOT (0.22 ACRES) VACANT PARCEL OF LAND, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D) (9) (a) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THE MINIMUM ROOF PITCH REQUIREMENT OF THREE AND ONE HALF (3.5') FEET IN TWELVE (12') FEET TO PROVIDE FOR A FLAT ROOF TO BE UTILIZED AS AN OUTDOOR ELEVATED OPEN AIR LIVING SPACE, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D) (5) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THE MAXIMUM BUILDING HEIGHT OF THIRTY (30') FEET TO PERMIT THE INSTALLATION OF AN ELEVATOR STRUCTURE TO A MAXIMUM HEIGHT OF THIRTY-SIX AND ONE-HALF (36.5') FEET WHICH REPRESENTS A TWO (2%) PERCENT OF THE OUTDOOR ELEVATED OPEN AIR LIVING SPACE, WHEREAS THE REMAINING PORTIONS OF THE SINGLE RESIDENCE ADHERE TO THE MAXIMUM PERMITTED BUILDING HEIGHT OF THIRTY (30') FEET, ON PROPERTY LEGALLY DESCRIBED AS: LOT 21, BLOCK 6, EASTERN SHORES ADDITION, PLAT BOOK 65, PAGE 39, PUBLIC RECORDS OF MIAMI-DADE COUNTY. A/K/A 3141 N.E. 165th Street, North Miami Beach, Florida. (P&Z Board Meeting of December 9, 2013 and January 13, 2014).**

After the motion to introduce item 15.1 Resolution R2014-6 was made Councilman Pierre, stated that he had to abstain from hearing this item due to a voting conflict.

City Clerk Latimore gave Councilman Pierre **Form 8B (MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS)** 15 days to file.

Councilman Pierre left the dais.

Councilwoman Smith stated that she would abstain from hearing this item due to a voting conflict.

City Clerk Latimore gave Councilwoman Smith **Form 8B (MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS)** 15 days to file.

Councilwoman Smith left the dais.

Discussion took place regarding what constitutes conflict of interest in such transactions.

At 9:09 p.m. a brief recess occurred for the City Attorney to make further inquiry into the recusal of Council Members Pierre and Smith.

The meeting was back in session at 9:20 p.m.

Councilwoman Smith returned to the dais and stated that after conversing with Interim City Attorney Joseph she does not have an active conflict.

**Jennings Disclosure – DeFillipo-** No, **Martell-** Yes, **Kramer-** Yes, **Spiegel-**Yes, **Smith-**Yes, **Pierre-** not present, **Vallejo-** Yes.

City Planner Carlos Rivero gave a brief summary of the item.

After the summary by city staff, Councilwoman Smith stated that she believes she has a present and active conflict and left the dais.

Mayor Vallejo opened the **Public Hearing:**

City Clerk Latimore swore in members of the public who would be giving testimony on this item.

The following person(s) made comments during the **Public Hearing.**

1. Joe Litowich- 16750 NE 10<sup>th</sup> Ave, North Miami Beach, FL., (on advice from the Interim City Attorney comments were not made) Member of city P&Z Board.
2. Alberto Milian- 4000 Ponce de Leon Blvd Suite 470 Coral Gables, FL. Made comments in favor of the ordinance.
3. Abraham Galsky- 17885 Collins Ave Apt 3406, Sunny Isles Beach, FL. Made comments in favor of the ordinance.

Mayor Vallejo closed **Public Hearing.**

The item returned to Council for discussion.

The item was opened for discussion by Mayor Vallejo.

The applicant Daniel Sorogon spoke about the project and conversations he had with homeowners in the immediate area. Several members of Council spoke about the variance and their concerns with it.

The applicant modified his request for the variance in the resolution. Council voted on this amended resolution.

**MOTION to adopt Resolution R2014-6 as amended** by removing section 3 and any conditions applying to section three (3), made by Councilwoman Martell seconded by Councilman Defillipo (**Passed 3-2**) (**Councilwoman Kramer and Vice Mayor Spiegel dissenting**)

**ROLL CALL:** DeFillipo-Yes, Kramer-No, Martell-Yes, Pierre-Abstained, Spiegel-No, Smith-Abstained, Vallejo-Yes.

Councilwoman Smith and Councilman Pierre returned to the dais after the vote on **Resolution R2014-6.**

**DIRECTION:** Council directed City Clerk Latimore to request an opinion from the Miami Dade Commission on Ethics regarding voting conflicts.

**DISCUSSION ITEMS:** Discussion took place regarding the salary arrangements for the Interim City Attorney.

**MOTION** to set the annual salary of the Interim City Attorney at \$165,000 while maintaining all other terms for her compensation package was made by Councilwoman Martell, seconded by Councilman Pierre

**(Passed 5-2) (Vice Mayor Spiegel and Councilwoman Kramer dissenting).**

#### **CITY COUNCIL REPORTS –**

**Councilman DeFillipo** thanked the City staff for all of the activities and programs they operate and thanked the Vice Mayor for her leadership in directing the Heart Health Walk.

**Councilwoman Kramer** expressed her desire to bring back the Charter Review Board. She informed residents about the Multi Cultural Meeting on March 10, 2014 at 7:00 p.m. in the McDonald Center and that the film Bend it Like Beckham would be screened at the Cultural Cinema Night on Friday March 14<sup>th</sup> at 7:00 p.m. at the Julius Littman Performing Arts Theater. She announced that on March 19<sup>th</sup> the Beautification Committee would be meeting at 5:30 p.m. in the fourth floor conference room to select finalists for the Beautiful Property Award. She also mentioned that on Saturday, April 19<sup>th</sup> at 9:30 the NMB 3<sup>rd</sup> Annual Magical History Tour would be taking place and encouraged colleagues and residents to participate.

**Councilwoman Martell** reflected on the events of the previous council meeting, provided her personal contact information and urged residents to reach out to her personally to get feedback and voice their concerns. She announced the resumption of her community meetings the first of which taking place at the Uleta Community Center on Saturday March 8<sup>th</sup> from 1:00 p.m. -2:00 p.m. and that FPL would also be present at 8:00 a.m. She thanked the Vice Mayor for orchestrating a successful Heart Health Walk and said how much she looked forward to the event growing and flourishing.

**Councilman Pierre** congratulated the winners of the all the awards presented by the City Manager. He stressed the importance of recognizing talent and performance and thanked the City Manager for resuming the program. He informed residents about the First Time Home Buyer's event on Saturday March 22<sup>nd</sup> from 10:30 a.m. to 3:00 p.m. at the Uleta Community Center. He echoed his colleagues' sentiments about the Heart Health Walk. He reminded residents about the North Miami Beach Public Library and mentioned the newly approved E Card program.

**Councilwoman Smith** thanked all the recipients of the awards for all their work and the supporting staff for making it possible. She mentioned the "Smart Water" program being operated by the police department, explaining how it works and encouraging residents to participate. She thanked the IT department for the presentation given to the senior citizens about how to utilize technology to better interact with the City.

**Vice Mayor Spiegel** reminded residents to prepare their recycle bins for the following day. She informed residents that The Commission on the Status of Women (COSW) would be meeting on Monday, March 10<sup>th</sup> at 7:00 p.m. and that there were still membership openings to fill on both the COSW and the Public Utilities Commission. She announced a youth symposium on bullying taking place on March 21<sup>st</sup> from 8:00 a.m. to 2:00 p.m. She thanked the presenters for participating and urged residents to do so as well.

**Mayor Vallejo** congratulated the Vice Mayor on the Hearth Health Walk and echoed the sentiments from Councilwoman Martell about the resilience of the Council and their determination to move the City forward with focus on positive growth and prosperity. He mentioned the Code Workshop on March 11<sup>th</sup> and the Police 100 Day Action plan on the 13<sup>th</sup> being presented by the Chief to as examples of the City's progress. He mentioned Staff Sergeant Travis Mills, his bravery, and his sacrifice having served and been critically injured but continuing to persevere despite setbacks.

#### **ADJOURNMENT**

There being no further business to come before the City Council, the meeting was adjourned at 11:34 p.m.

ATTEST:

(SEAL)

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Pamela L. Latimore, CMC

Exhibit D

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>PIERRE, FRANTZ</b>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>NMB CITY COUNCIL - GROUP 5</b>	
MAILING ADDRESS <b>2120 N.E. 171<sup>ST</sup> STREET</b>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY	
CITY <b>NORTH MIAMI BEACH</b>	COUNTY <b>MIAMI-DADE</b>	NAME OF POLITICAL SUBDIVISION: <b>N/A</b>	
DATE ON WHICH VOTE OCCURRED <b>03-04-2014</b>		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

RECEIVED  
14 MAR 11 4:54 PM  
NMB CITY CLERK'S OFFICE

### APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

### DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, FRANTZ PIERRE, hereby disclose that on MARCH 4<sup>th</sup>, 20 14:

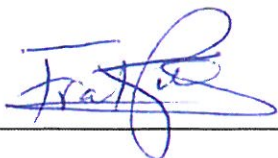
(a) A measure came or will come before my agency which (check one)

- ☒ inured to my special private gain or loss;
- \_\_\_ inured to the special gain or loss of my business associate, \_\_\_\_\_;
- \_\_\_ inured to the special gain or loss of my relative, \_\_\_\_\_;
- \_\_\_ inured to the special gain or loss of \_\_\_\_\_, by  
whom I am retained; or
- \_\_\_ inured to the special gain or loss of \_\_\_\_\_, which  
is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

*I am in negotiation with the owner of  
the item to be discussed under R 2014-6*

03-04-2014  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Exhibit E

# Miami Herald

Posted on Thu, Mar. 06, 2014

## Developer can go ahead with scaled-back plans for luxury home in North Miami Beach

By Patricia Sagastume  
The Miami Herald

A developer can build a multi-million-dollar home with a rooftop terrace in the Eastern Shores neighborhood of North Miami Beach, but he can't build it tall enough to include an elevator.

North Miami Beach council members voted 3-2 to allow the flat roof, but the property owner dropped his request for a height variance that would have allowed an elevator after he saw he didn't have enough votes.

The developer, Abraham Galsky, wants to build the luxury home on a lakefront lot in the 3100 block of Northeast 165th St.

Mayor George Vallejo and council members Marlen Martell and Anthony DeFillipo, voted to allow the flat roof, while council members Barbara Kramer and Beth Spiegel dissented.

In an unexpected move, council members Frantz Pierre and Phyllis Smith said they had conflicts of interest that prevented them from voting.

Under state law, city council members are required to vote on any matter that comes in front of them — unless they have a conflict of interest. The law is intended to prevent officials from dodging controversial votes. But in Miami-Dade, the county ethics law defines conflict of interest broadly, giving officials ample wiggle room.

Pierre told the Miami Herald that he couldn't vote because he was thinking about buying the minimalist, four-bedroom, 6,300-square-foot home, which is estimated to go on the market for \$4.2 million.

"I have five children and it is exactly something my wife and I want for the future," said Pierre. When asked about if the price was in his range, he said, everything is negotiable.

According to his most recent financial disclosure, filed in 2012, Pierre's only sources of income were his job as a Miami-Dade County elementary-school teacher, where he earns about \$53,000 per year, and his compensation as a councilman, which is about \$30,000. He listed no assets or liabilities.

Smith, who is a licensed real estate agent, initially said she was not involved in any contracts or negotiations for the purchase of the house, but later said she was.

"I am negotiating a different contract in a different area, and the people I'm negotiating with

have met with the owners and they have spoken to me about this project," said Smith.

This came as a surprise to Galsky, who said, he and his partners are under no current negotiations or contracts from Pierre or Smith.

"We have never spoken to Councilwoman Smith, nor do I know of any contract she is talking about. As far as Councilman Pierre, he did call us last weekend but the conversation was very brief. There were no serious inquiries or questions," said Galsky.

This caught some of the other council members off guard, and they questioned interim city attorney Dotie Joseph about whether the decision to allow Smith to recuse herself meant others should too, since most of the council members are involved in real estate as agents or married to someone who was.

"This is just ridiculous," said Councilwoman Kramer. "I have a problem with this because in the future we may not have a quorum for any new house that comes up, "

"We need to give the people of this city and this applicant a fair hearing from a full board," said Mayor Vallejo.

Last month, the council members complained that the proposed 4,000-square-foot rooftop terrace was too big and would invite noisy parties. Even though the revised plan had a smaller rooftop terrace less than half the size, the owner decided to withdraw his request for the height variance.

"After the two council people left, it was obvious we weren't going to have the votes to get it passed," Galsky said.

Galsky said at this point he plans to go ahead with the house with the smaller rooftop terrace and no elevator.

A similar issue is being decided in the Town of Golden Beach, where most of the multi-million-dollar homes enjoy breathtaking beautiful oceanfront and inter-coastal views. Currently, there are homes with rooftop terraces, but last month an ordinance was passed on first reading to prohibit rooftop terraces with elevators. Beachfront properties are exempted. A second reading is scheduled for March 18.

In other action, the council voted 5-2 to pay interim city attorney Dotie Joseph at an annual rate of \$165,000 for as long as she remains as acting city attorney. Last month, the council abruptly fired their longtime attorney, Darcee Siegel, who was making \$188,000 yearly.

Joseph defended herself when Kramer suggested a salary of \$150,000 and no contract.

"In other situations the interim city attorney is paid exactly the same as the actual city attorney. At the end of the day, Darcee was making about 180 and I was making 90 [as assistant city attorney]. I've taken on Darcee's entire duties, plus I still maintain most of mine. I think something in the 165-170 range is more than fair," Joseph said.

Spiegel and Kramer voted against the motion.

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<http://www.miamiherald.com>

Exhibit F

FORM 1		STATEMENT OF		2012	
FINANCIAL INTERESTS		RECEIVED 13 JUN 18 PM 5:06 FOR OFFICE USE ONLY:			
Please print or type your name, mailing address, agency name, and position below:					
LAST NAME - FIRST NAME - MIDDLE NAME: <u>Pierre, Frantz</u>					
MAILING ADDRESS: <u>2120 NE 171<sup>st</sup> Street</u>					
<u>North Miami Beach 33162 Miami-Dade</u>					
CITY: <u>City of North Miami Beach</u> ZIP: COUNTY:					
NAME OF AGENCY: <u>NMB City Council Group 5 / General Employee Pension Board</u>					
NAME OF OFFICE OR POSITION HELD OR SOUGHT:					
You are not limited to the space on the lines on this form. Attach additional sheets, if necessary.					
CHECK ONLY IF <input type="checkbox"/> CANDIDATE OR <input type="checkbox"/> NEW EMPLOYEE OR APPOINTEE					
**** BOTH PARTS OF THIS SECTION MUST BE COMPLETED ****					
DISCLOSURE PERIOD: THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR THE PRECEDING TAX YEAR, WHETHER BASED ON A CALENDAR YEAR OR ON A FISCAL YEAR. PLEASE STATE BELOW WHETHER THIS STATEMENT IS FOR THE PRECEDING TAX YEAR ENDING EITHER (must check one): <input checked="" type="checkbox"/> DECEMBER 31, 2012 OR <input type="checkbox"/> SPECIFY TAX YEAR IF OTHER THAN THE CALENDAR YEAR: _____					
MANNER OF CALCULATING REPORTABLE INTERESTS: THE LEGISLATURE ALLOWS FILERS THE OPTION OF USING REPORTING THRESHOLDS THAT ARE ABSOLUTE DOLLAR VALUES, WHICH REQUIRES FEWER CALCULATIONS, OR USING COMPARATIVE THRESHOLDS, WHICH ARE USUALLY BASED ON PERCENTAGE VALUES (see instructions for further details). CHECK THE ONE YOU ARE USING: <input checked="" type="checkbox"/> COMPARATIVE (PERCENTAGE) THRESHOLDS OR <input type="checkbox"/> DOLLAR VALUE THRESHOLDS					
PART A - PRIMARY SOURCES OF INCOME [Major sources of income to the reporting person - See instructions] (If you have nothing to report, you must write "none" or "n/a")					
NAME OF SOURCE OF INCOME		SOURCE'S ADDRESS		DESCRIPTION OF THE SOURCE'S PRINCIPAL BUSINESS ACTIVITY	
<u>MIAMI-DADE COUNTY PUBLIC SCHOOLS</u>		<u>1450 DISCAYNE AVE.</u>		<u>PUBLIC EDUCATION</u>	
		<u>MIAMI, FL.</u>			
<u>CITY OF NORTH MIAMI BCH</u>		<u>17011 NE 19<sup>th</sup> AVE - NMB, FL.</u>		<u>MUNICIPAL GOVERNMENT</u>	
PART B - SECONDARY SOURCES OF INCOME [Major customers, clients, and other sources of income to businesses owned by the reporting person - See instructions] (If you have nothing to report, write "none" or "n/a")					
NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE		
<u>N/A</u>					
PART C - REAL PROPERTY [Land, buildings owned by the reporting person - See instructions] (If you have nothing to report, you must write "none" or "n/a")					
<u>N/A</u>					
FILING INSTRUCTIONS for when and where to file this form are located at the bottom of page 2.					
INSTRUCTIONS on who must file this form and how to fill it out begin on page 3.					

**PART D — INTANGIBLE PERSONAL PROPERTY** [Stocks, bonds, certificates of deposit, etc. - See instructions]  
(If you have nothing to report, you must write "none" or "n/a")

TYPE OF INTANGIBLE	BUSINESS ENTITY TO WHICH THE PROPERTY RELATES
N/A	

**PART E — LIABILITIES** [Major debts - See instructions]  
(If you have nothing to report, you must write "none" or "n/a")

NAME OF CREDITOR	ADDRESS OF CREDITOR
N/A	

**PART F — INTERESTS IN SPECIFIED BUSINESSES** [Ownership or positions in certain types of businesses - See instructions]  
(If you have nothing to report, you must write "none" or "n/a")

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH F ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE ☐

**SIGNATURE (required):**



**DATE SIGNED (required):**

06-18-2013

**FILING INSTRUCTIONS:**

**WHAT TO FILE:**

After completing all parts of this form, **including signing and dating it**, send back only the first sheet (pages 1 and 2) for filing.

If you have nothing to report in a particular section, you must write "none" or "n/a" in that section(s).

**NOTE:**

**MULTIPLE FILING UNNECESSARY:**

Generally, a person who has filed Form 1 for a calendar or fiscal year is not required to file a second Form 1 for the same year. However, a candidate who previously filed Form 1 because of another public position must at least file a copy of his or her original Form 1 when qualifying.

**WHERE TO FILE:**

If you were mailed the form by the Commission on Ethics or a County Supervisor of Elections for your annual disclosure filing, return the form to that location.

**Local officers/employees** file with the Supervisor of Elections of the county in which they permanently reside. (If you do not permanently reside in Florida, file with the Supervisor of the county where your agency has its headquarters.)

**State officers or specified state employees** file with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317-5709.

**Candidates** file this form together with their qualifying papers.

To determine what category your position falls under, see the "Who Must File" Instructions on page 3.

**Facsimiles will not be accepted.**

**WHEN TO FILE:**

**Initially**, each local officer/employee, state officer, and specified state employee must file **within 30 days** of the date of his or her appointment or of the beginning of employment. Appointees who must be confirmed by the Senate must file prior to confirmation, even if that is less than 30 days from the date of their appointment.

**Candidates** for publicly-elected local office must file at the same time they file their qualifying papers.

**Thereafter**, local officers/employees, state officers, and specified state employees are required to file by July 1st following each calendar year in which they hold their positions.

**Finally**, at the end of office or employment, each local officer/employee, state officer, and specified state employee is required to file a final disclosure form (Form 1F) within 60 days of leaving office or employment. However, filing a CE Form 1F (Final Statement of Financial Interests) does **not** relieve the filer of filing a CE Form 1 if he or she was in their position on December 31, 2012.