

Independent Review Panel

Staff Report

November 30, 2005

Complaint: B2005.173

Complainant: Mr. Keith Wilson

Accused Party: Building Code Compliance

Date Complaint Received: October 6, 2005

Materials Reviewed: Correspondence, staff notes, emails. County Code Section 8CC

Complaint: Mr. Wilson stated that he went to a citation appeal hearing at the West Dade Permitting Center on July 28, 2005. Mr. Wilson brought his video camera in order to record the hearing. Mr. Wilson said that, prior to the hearing, he contacted the Clerk of the Courts and was assured by Code Enforcement Supervisor Gigi Johnson, that the meeting was a public hearing. Mr. Wilson stated he also contacted Joe Centorino of the SAO prior to the hearing to confirm he would be able to video tape. According to Mr. Wilson, once at the hearing he was told he could not video tape and was escorted out of the building by security. MDPD was called and according to Mr. Wilson he was "temporarily" arrested.

Mr. Wilson alleges that:

1- Director Charles Danger, Building Supervisor Rick Roig, Security Chief Nick Sene, Building Manager Mike Cruz, and Clerk of the Courts Code Enforcement Supervisor Gigi Johnson, violated the Sunshine Law by not letting him video tape his appeal hearing.

2- Assistant County Attorney Tom Robertson gave misinformation when he told Ms. Johnson the hearing was not a public hearing despite telling Mr. Wilson otherwise.

Staff Findings:

A. Regarding the allegation

Staff found the allegations to be **Not Sustained**, based on the following:

1. Staff spoke to Assistant County Attorney Thomas Robertson and he stated that Government offices have the discretion to prevent anyone from filming on government property, similar to the rights of a private owner. Mr. Robertson also said he never had any contact with the complainant prior to the hearing nor did he tell the

complainant that he would be able to use his video camera, or that the appeal hearing was a public hearing.

2. Staff spoke with Assistant State Attorney Joe Centorino, who specializes in Sunshine Law cases, and he stated that an appeals hearing heard before a single hearing officer is not governed by the Sunshine Law.

3. Staff spoke to Ms. Marisol Triana from Building Department Communications and she stated she has dealt with the complainant several times in reference to his video camera. Ms. Triana stated Mr. Wilson has been informed he could not videotape two times prior to the incident by Communications employees and security. Ms. Triana also stated that the hearing is already videotaped by the Clerk of Courts and anyone can order a copy.

4. Staff spoke with Mr. Rick Roig of the Building Department who stated that a permit must be obtained in order to film inside of the building. Mr. Roig also stated that the hearing was rescheduled so that Mr. Wilson could comply with the no video camera requirement but he did not show up and was found “guilty.”

5. Staff spoke with Mr. Nick Sene, head of security for the West Dade Permitting Center. Mr. Sene stated that after “9/11” video cameras are not allowed in County buildings without a permit. Mr. Sene referred Staff to Administrative Order 4-34 as the basis for their “no video camera” policy.

6. Staff spoke with Ms. Johnson from the Clerk of the Courts office and she stated she never had a conversation with Mr. Wilson prior to the incident, nor did she ever inform Mr. Wilson that he could use his video camera at the hearing.

B. Other Findings:

1. Mr. Wilson’s concerns fall under Section 8CC-5 of the County Code: Rights of violators; payment of fine; right to appeal; failure to pay and correct, or to appeal. A violator may “request an administrative hearing before a Hearing Officer to appeal the decision of the Code Inspector which resulted in the issuance of the civil violation notice or notice of assessment.” “Administrative hearing” is the term used to address the appeal process throughout the County Code.

2. Staff spoke to Ms. Cindy Crespo, of the Building Code Compliance Department. Ms. Crespo stated that appeals hearing were public hearings and can be videotaped, contrary to the rest of the individuals contacted by Staff.

3. AO 4-34 only addresses the procedures for obtaining video permits; it does not address the use of video cameras in County buildings.

4. Mr. Robertson stated there was no written policy governing the use of video cameras inside County buildings without a permit.

5. Ms. Johnson and Mr. Robertson said they never had any contact with Mr. Wilson prior to the hearing, contrary to Mr. Wilson's statement.

Staff Notes:

According to Mr. Wilson's statement, he wrote a letter to Ms. Johnson, prior to the hearing, and one to Mr. Centorino on July 10, 2005 and Mr. Centorino "articulated his position in writing." When Staff contacted Mr. Wilson on November 17, 2005 to request copies of these documents, he stated that all were "destroyed" during the recent hurricane.

Recommendations:

Staff recommends that a policy regarding the use of video cameras inside County buildings be clearly written out and made available to the public and County employees.