FLORIDA
COMMISSION ON ETHICS
JUL 24 2023
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BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

CONFIDENTIAL

In re: Aneala Beachum,

Respondent. **Complaint No.: 23-016**

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ADVOCATE'S RECOMMENDATION

The undersigned Advocate, after reviewing the Complaint and Report of Investigation filed in this matter, submits this Recommendation in accordance with Rule 34-5.006(3), F.A.C.

RESPONDENT/COMPLAINANT

Respondent, Aneala Beachum, served as a member of the Noma Town Council. Complainant is Charles Padgett of Bonifay, Florida.

JURISDICTION

The Executive Director of the Commission on Ethics determined that the Complaint was legally sufficient and ordered a preliminary investigation for a probable cause determination as to whether Respondent violated Sections 112.313(7) and 112.3143(3)(a), Florida Statutes. The Commission on Ethics has jurisdiction over this matter pursuant to Section 112.322, Florida Statutes.

The Report of Investigation was released on June 28, 2023.

ALLEGATION ONE

Respondent is alleged to have violated Section 112.313(7)(a), Florida Statutes, by having a conflicting relationship that would create a continuing or frequently recurring conflict between her private interests and the performance of her public duties or that would impede the full and faithful discharge of her public duties.

APPLICABLE LAW

Section 112.313(7)(a), Florida Statutes, provides as follows:

> CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP. (a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

In order to establish a violation of Section 112.313(7), Florida Statutes, the following elements must be proved:

1. Respondent must have been a public officer or employee.

2. Respondent must have been employed by or have had a contractual relationship with a business entity or an agency.

3. Such business entity or state or agency must have been subject to the regulation of, or doing business with, the agency of which the Respondent was an officer or employee.

OR

1. Respondent must have been a public officer or employee.

2. Respondent must have held employment or a contractual relationship that will:

a) create a continuing or frequently recurring conflict between the Respondent's private interests and the performance of the Respondent's public duties;

or

b) impede the full and faithful discharge of the Respondent's public duties

ANALYSIS

Complainant serves as a member of the Noma Town Council. (ROI 4) On February 3, 2020, Respondent was appointed to the Town Council in order to fill the vacated seat of a Councilmember who resigned from office. (ROI 4, 9) She no longer serves on the Council. (ROI 9) She is the owner of a Victory Financial Services franchise and is self-employed as a tax preparer. (ROI 9)

Complainant advised that the Town owns a house (duplex) that was being rented to an individual who died in September 2020. (ROI 5) At an October 2020 Town Council meeting, the Council, including Respondent, voted to purchase, from the family of the deceased former renter, an air conditioning unit and security system the renter personally purchased and installed in the house. (ROI 5)

In November 2020, Respondent made a $400 payment to the Town to rent the house. (ROI 5) Complainant advised that Respondent did not mention her interest in the house at the October 2020 meeting. (ROI 5) Respondent paid rent to the Town through February 2022; however, Complainant advised that Respondent continued to occupy the house but did not pay rent. (ROI 5) There is no written lease or rental agreement documenting the rental arrangement. (ROI 12, 16)

Between March and May of 2022, the Town Council discussed condemning the house because the cost to repair it was estimated to be more than it was worth. (ROI 6, 14) As noted above, around this time, Respondent stopped paying monthly rent. (ROI 6)

Complainant advised that Respondent requested a refund on the water and sewer services after she had the services to the house turned off in April 2022 and received a $300 check from the Town Clerk. (ROI 7) Complainant advised that Respondent continued to use the house for storage and refused to return the house keys to the Town. (ROI 7)

At a November 2022 Council meeting, which Respondent did not attend, the Town Council voted to evict Respondent from the house. (ROI 8) Respondent returned the keys to the Town in December 2022. (ROI 8) Complainant contends Respondent owes $4,000 in back rent. (ROI 8)

Respondent advised that she was interested in renting a house "in-town." (ROI 11) One year prior to her tenure on the Town Council, she discussed it with the then-Town Clerk Patricia Cochrane. (ROI 11) However, the house was unavailable at that time because the mayor's cousin was renting it. (ROI 11)

Respondent advised that a couple of months after she was appointed to the Town Council, Cochrane called to inform her that the house was available due to death of the mayor's cousin. (ROI 12) Respondent and Cochrane advised that then-Mayor James Hayes granted permission for Respondent to rent the house. (ROI 11, 12, 16)

A councilmember overheard a conversation between Respondent and Cochrane regarding the house and he opined that Respondent could not rent the house because she was on the Council. (ROI 12) Consequently, Cochrane called then-Town Attorney Owen Powell who opined that as long as Respondent was paying rent and not using the house for free, then she would not have a

conflict. (ROI 12, 16, 17) Respondent used one side of the house (duplex) for her tax preparation business and she ran a deli on the other side. (ROI 13)

Respondent disputes owing back rent. (ROI 14) She contends that she was told her rent was going towards repairing the house, but it did not happen. (ROI 14) She explained that if her rent was not being used to pay for repairs and the house was going to be condemned, then she did not want to pay any rent if the house was not going to be improved. (ROI 14) However, she wanted to be considered "first in line" to rent the property if it was not condemned. (ROI 6) She further advised that the Town did not send her a bill for any back rent. (ROI 14)

Respondent contends the Town Council approved of her renting the house. (ROI 12) Former Mayor Hayes acknowledged approving the renting of the house to Respondent but could not recall if the Town Council addressed the matter. (ROI 18) Other councilmembers did not recall if the matter was addressed. (ROI 19)

Town meeting minutes fail to mention renting the house to Respondent. (ROI 19) However, that is not proof positive that the Council did not discuss the matter because certain meeting minutes are missing and there is a chance that the discussion was not documented. (ROI 19)

Section 112.313(7)(a), Florida Statutes, is intended to prevent situations in which private considerations may override the faithful discharge of public responsibilities. A primary objective of the Code of Ethics is that government officials avoid situations in which there is a *temptation* to place personal gain, economic or otherwise, above the discharge of one's fiduciary duty to the public. *Zerweck v. State Commission on Ethics*, 409 So. 2d 57, 60 (Fla. 4th DCA 1982).

While Respondent did not have a written contractual relationship with the Town for the rental of the house, the parties had a "meeting of the minds" regarding there being a rental

agreement. Respondent's contractual relationship, that is her private interest in the Town's house, had the ability to create a continuing conflict with her public duties and/or impede the full and faithful discharge of her public duties.[1] An example of the conflict is Respondent not following Attorney Powell's admonishment to pay rent. The Town Council, of which Respondent was a member, had to vote to evict her and only then did she return the keys to the house.

Therefore, based upon the evidence before the Commission, I recommend that the Commission find probable cause to believe that Respondent violated Section 112.313(7)(a), Florida Statutes.

ALLEGATION TWO

Respondent is alleged to have violated Section 112.3143(3)(a), Florida Statutes, by voting on a matter that would inure to her special private gain.

APPLICABLE LAW

Section 112.3143(3)(a), Florida Statutes, provides as follows:

> No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

Section 112.3143(1)(d), Florida Statutes, defines special private gain or loss as follows:

[1] The Advocate's Recommendation does not intend to reject a violation under the first analysis of this statute should evidence arise to reflect a violation.

> "Special private gain or loss" means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:
>
> 1. The size of the class affected by the vote.
>
> 2. The nature of the interests involved.
>
> 3. The degree to which the interests of all members of the class are affected by the vote.
>
> 4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.
>
> The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered.

In order to establish a violation of Section 112.3143(3)(a), Florida Statutes, the following elements must be proved:

> 1. Respondent must have been a county, municipal or other local public officer serving on a collegial body.
>
> 2(A). Respondent must have:
>
> 1) voted in his or her official capacity on a measure which would have inured to the Respondent's own special private gain or loss,
>
> or
>
> 2) voted in his or her official capacity on a measure which the Respondent knew would have inured to the special private gain or loss of a principal by whom the Respondent was retained or to the parent organization or subsidiary of a corporate principal by which the Respondent was retained,
>
> or

3) voted in his or her official capacity on a measure which the Respondent knew would have inured to the special private gain or loss of a relative or business associate of the Respondent.

OR

(B). When abstaining from a vote because of a conflict, the Respondent, prior to the vote being taken, must have failed to publicly state to the assembly the nature of his or her interest in the measure described in paragraph 2(A), above.

OR

(C). After abstaining from a vote because of a conflict, the Respondent failed to disclose the nature of his or her interest in the measure described in paragraph 2(A), above, as a public record in a memorandum filed within 15 days after the vote occurred with the person responsible for recording the minutes of the meeting at which the vote occurred.

ANALYSIS

The underlying facts and circumstances relating to this allegation are contained above in Allegation One. In addition, Respondent advised she was not renting the house at the time she participated in the October 2020 vote. (ROI 15) Respondent was not renting the house at the time of the vote and, thus, not in receipt of a special private gain by the vote. At the time of vote, any gain to Respondent was speculative.

Therefore, based on the evidence before the Commission, I recommend that the Commission find no probable cause to believe that Respondent violated Section 112.3143(3)(a), Florida Statutes.

RECOMMENDATION

It is my recommendation that:

1. There is probable cause to believe that Respondent violated Section 112.313(7), Florida Statutes, by having a conflicting relationship that would create a continuing or frequently

recurring conflict between her private interests and the performance of her public duties or that would impede the full and faithful discharge of her public duties.

2. There is no probable cause to believe that Respondent violated Section 112.3143(3)(a), Florida Statutes, by voting on a matter that would inure to her special private gain.

Respectfully submitted this 24th day of July, 2023.

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