



LAW OFFICES OF
BRIAN SILBER, P.A.
— Trial Attorney —

March 24, 2017

Jennifer Merino, Esq.
c/o City of Hallandale Beach
400 South Federal Highway
Second Floor
Hallandale Beach, Florida 33309

SENT VIA EMAIL: JMerino@cohb.org

**RE: Invoice for Legal Representation
of Commissioner Michele Lazarow**

Dear Mrs. Merino,

As you may be aware, I recently represented Commissioner Michele Lazarow in an investigation conducted by the Broward State Attorney's Office.

This investigation was initiated following allegations made by Hallandale Beach Mayor Joy Cooper to Broward State Attorney Michael J. Satz. Briefly, those allegations claimed that Commissioner Lazarow violated Florida's Sunshine Law during a city commission meeting last year.

The investigation is now closed with no action taken by the Broward State Attorney's Office. According to a closeout memo drafted by the assigned prosecutor, there was **insufficient evidence** to sustain Mayor Cooper's allegations that Commissioner Lazarow violated Florida's Sunshine Law. A copy of the closeout memo is enclosed herewith.

Under Florida law, a municipal corporation is legally obliged to furnish or pay fees for an attorney to represent a public official in a civil or criminal proceeding. The purpose of this doctrine "is to avoid the chilling effect that a denial of representation might have on public officials in performing their duties properly and diligently." *Nuzum v. Valades*, 568 So. 2d 914 (Fla 3d DCA 1981).

A municipality is obligated if 1) the underlying conduct arises out of the performance of the official's duties, and 2) the official is serving a public purpose. See *Moloy v. Board of Commissioners of Leon County*, 946 So. 2d 1260 (Fla. 1st DCA 2007); *Chavez v. Tampa*, 560 So. 2d 1214 (Fla. 2d DCA 1990); *Thornber v. Fort Walton Beach*, 568 So. 2d 914 (Fla. 1990); *Ferrera v. Caves*, 475 So. 2d 1295 (Fla. 4th DCA 1985); *Lomelo v. Sunrise*, 423 So. 2d 974 (Fla. 4th DCA 1982).

Given the nature of Mayor Cooper's allegations and the criminal investigation they spurred, the City of Hallandale Beach is obligated to pay for Commissioner Lazarow's legal fees.

Attached hereto is an invoice and redacted time sheet for services rendered by me while representing Commissioner Lazarow in this matter.

If you have any questions, feel free to contact me at: 954-462-3636.

Cordially,

A handwritten signature in black ink, appearing to read 'B Silber', written over a horizontal line.

Brian Silber, Esq.

cc: **Commissioner Michele Lazarow**
City Commissioner

Roger Carlton
City Manager



MICHAEL J. SATZ
STATE ATTORNEY
SEVENTEENTH JUDICIAL CIRCUIT OF FLORIDA
BROWARD COUNTY COURTHOUSE
201 S.E. SIXTH STREET
FORT LAUDERDALE, FL 33301-3360

PHONE (954) 831-6955

CLOSE-OUT MEMORANDUM

To: File
From: Christopher Killoran (K)
Re: Keith London and Michele Lazarow - File # SP16-07-067
Date: January 19, 2017

Reason for Close-out:

This investigation was referred to SPU by Hallandale Beach Mayor Joy Cooper ("Cooper") in regards to whether or not the Florida Sunshine Law was violated by Commissioner Keith London ("London") and Commissioner Michele Lazarow ("Lazarow") as it relates to a Hallandale Beach Community Redevelopment Agency ("HBCRA") meeting on April 18, 2016. The allegations that precipitated this investigation are that London and Lazarow had a discussion as it relates to an item on the dais from the HBCRA meeting without the other three members being present. There was video provided by Cooper from the April 18th meeting that shows the incident in question. After a thorough investigation, including taking a sworn statement from Cooper, procuring the video from the April 18th meeting, as well as multiple meetings with London and Lazarow's attorneys (David DiPietro and Brian Silber, respectively) including proffers offered by both, the Undersigned has found insufficient evidence to support the allegations of a Sunshine Law Violation.

The HBCRA is "a dependent special district in which any future increases in property values are set aside to support economic development projects within that district." The board members are composed of the five city commissioners (including the mayor) who hold public meetings to discuss pertinent issues as it relates to community development. These meetings must comport with the Sunshine Laws as dictated by F.S. 286.011. On April 18, 2016 there was a HBCRA meeting held directly after a standard Hallandale Beach City Commission meeting. The video obtained in this case starts with Cooper leading the Pledge of Allegiance. Once the Pledge is finished, the video shows London and Lazarow entering from the right side of the stage. Once Cooper opens the meeting, she has some preliminary discussion with Commissioner Sanders about scheduling. Once this concludes, Cooper calls to order the meeting in regards to a few listed items to be discussed. For April 18, 2016 there were two items to be addressed, Items A and B. London then states he wants to discuss one of the items. Cooper asks which one and before London can answer, Lazarow answers "Item A". This investigation is whether or not Lazarow answering the inquiry of which item London wanted to pull constitutes a violation of the Sunshine Law.

The Undersigned took a sworn statement of Cooper on August 30, 2016. At the statement Cooper detailed the incident from her perspective. When asked whether or not she knew what London and Lazarow were discussing prior to the meeting, or whether or not Cooper knew if anyone overheard the conversation, she was not able to answer in the affirmative. Further investigation did not uncover any additional witnesses or information as it relates to the discussion between London and Lazarow. The Undersigned then sent Target letters to both London and Lazarow to ascertain whether or not they were willing to provide any information in regards to the investigation. Through their respective counsel, both London and Lazarow stated that they did not discuss Item A during the break on April 18, 2016 and neither could recall what they were discussing while they were off the dais that day. Item A at this particular meeting dealt with a resolution by the HBCRA approving an engagement agreement with N-K Ventures LC to continue to provide real estate advisory consulting services to HBCRA in an amount not to exceed \$50,000. Additionally, through Lazarow's attorney, she proffered that Item A was previously discussed on March 14, 2016 in regards to a potential conflict of interest with another city vendor and N-K Ventures. Apparently, the representative from N-K Ventures had the same last name (Lawlor) as a different vendor hired by the city previously so the commission inquired as to any familial relationship to avoid any potential conflicts. On March 14, 2016 the potential conflict was discussed but the ultimate decision in regards to Item A was not voted upon. According to Lazarow, she knew that London was going to address Item A on April 18, 2016 since it had previously been addressed on March 14, 2016 but was never resolved. Once Lazarow saw that Item A was on the agenda, she assumed that this was the Item London wanted to call. Based upon this explanation, there is a reasonable hypothesis of innocence in regards to this investigation. This, coupled with lack of evidence to the contrary, necessitates SP16-07-067 to be closed due to insufficient evidence to prove criminal conduct.

APPROVED:



DATE:

1.19.2017