

#### UNIFIED PERSONNEL BOARD AGENDA

Date: September 5, 2024

Time: 6:30 p.m.

Location: BCC Assembly Room, Fifth Floor, Pinellas County Courthouse

315 Court Street, Clearwater, Florida

Citizens to be Heard\*

Employees' Advisory Council (EAC) Representative

- I. Consent Agenda
  - 1. Request Approval of the Minutes of the Regular Personnel Board Meeting held August 1, 2024 *Approved*
- II. New Business
  - 1. FY2025 Pay Plan Adjustments Approved
  - 2. Human Resources Career Paths Recommendation Approved
  - 3. Chief Human Resources Officer's General Increase Approved
- III. Informational Items
  - 1. HR Update
  - 2. Action Taken Under Authority Delegated by the Personnel Board
- IV. Appellant's Motion for Reconsideration of Termination Appeal
  - Michael Van Hofwegen v. Pinellas County Property Appraiser Denied (Termination Upheld)

Persons are advised that, if they decide to appeal any decision made at this meeting/hearing, they will need a verbatim record of the proceedings, and, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

<sup>\*</sup> Persons with disabilities who need reasonable accommodations to effectively participate in this meeting are asked to contact Pinellas County's Office of Human Rights by emailing requests to <a href="mailto:accommodations@pinellas.gov">accommodations@pinellas.gov</a> at least three (3) business days in advance of the need for reasonable accommodation. You may also call (727) 464-4882. View more information about the <a href="mailto:Americans with Disabilities Act and requests for reasonable accommodation">Americans with Disabilities Act and requests for reasonable accommodation</a>.

# Unified Personnel Board Pinellas County August 1, 2024 Meeting Minutes

The Unified Personnel Board (UPB) met in regular session at 4:01 PM on this date in the County Commission Assembly Room at the Pinellas County Courthouse, 315 Court Street, Clearwater, Florida.

#### **Present**

Ricardo Davis, Chair Ralph O. Reid IV, Vice-Chair Jeffery Kronschnabl Peggy O'Shea Kenneth Peluso Joan Vecchioli

#### Not Present

William Schulz II

#### Others Present

Wade Childress, Chief Human Resources (HR) Officer Jennifer Monrose Moore, Ogletree, Deakins, et. al., P.C., Board Counsel Leena Delli Paoli, Employees' Advisory Council Representative Tammy Burgess, Board Reporter, Deputy Clerk Other interested individuals

All documents provided to the Clerk's Office have been made a part of the record.

#### CALL TO ORDER

Chair Davis called the meeting to order at 4:01 PM; whereupon, he led the Pledge of Allegiance.

#### **CITIZENS TO BE HEARD**

No one responded to the Chair's call for citizens to be heard.

#### **EMPLOYEES' ADVISORY COUNCIL (EAC) REPRESENTATIVE**

Later in the meeting, Ms. Delli Paoli discussed training provided to two new Employee Advocates.

In response to comments and queries by Mr. Reid, Ms. Delli Paoli indicated that there are currently four Employee Advocates; and that she will be attending the UPB's joint workshop with the Appointing Authorities.

#### **CONSENT AGENDA**

#### Minutes of the Regular Personnel Board Meeting Held July 11, 2024

Ms. Vecchioli made a motion to approve the July 11 meeting minutes. The motion was seconded by Ms. O'Shea and carried unanimously.

#### **NEW BUSINESS**

#### Approval of Proposed Changes to Employees' Advisory Council Bylaws

Later in the meeting, Ms. Delli Paoli discussed proposed changes to the EAC Bylaws relating to the title of Mr. Childress' position and the election process; whereupon, she requested the Board's approval of the revisions.

Ms. Vecchioli made a motion to approve the revised EAC Bylaws. The motion was seconded by Mr. Peluso and carried unanimously.

#### Topics for Joint Workshop with Appointing Authorities on August 22, 2024

Mr. Childress indicated that Clerk of the Circuit Court and Comptroller Ken Burke requested that the Employee Voice Survey be added to the workshop agenda; and that the main topic for discussion would be goals for his position.

Ms. Vecchioli related that it was her understanding that a draft agenda would be presented at today's meeting for Board approval; and that she would like to be sure that the agenda is published in a timely manner so that the Appointing Authorities are provided ample notice of the topics. In response to Ms. Vecchioli's comments, Mr. Childress indicated that he plans to review the goals presented at the last UPB meeting with the HR team to solicit their input; and that he will prepare the joint workshop agenda following that meeting; whereupon, Mr. Reid requested that Mr. Childress add EAC Advocates as an agenda topic.

Mr. Childress related that he was invited to the County Attorney's performance appraisal review process and was asked to make recommendations for changes; whereupon, he discussed creating a performance appraisal template for the County's senior management positions. He indicated that he is a Board of Directors member for CPS HR Consulting, which provides HR consulting services exclusively for government entities; that, as a Board member, he receives \$5,000.00 worth of services or reimbursement; and that, with the Board's approval, he would like to utilize their services to provide recommendations relating to a potential performance appraisal template.

Referring to the July 11 UPB minutes, Ms. Vecchioli pointed out that the performance evaluation process for employees and the establishment of a standardized performance management system were discussed as potential agenda topics and requested that Mr. Childress add these to the joint workshop agenda, along with a line item for open discussion.

#### INFORMATIONAL ITEMS

#### Reduction in Force – Housing and Community Development

Assistant to the County Administrator Amy Davis indicated that she is responsible for overseeing the community redevelopment agency in Lealman; that she is requesting the Board's approval of a Reduction in Force of an Administrative Support Specialist 1 position; and that the goal is to build increased knowledge within the team and to add a new position for conducting analyses and research and managing future programs, which requires a higher level position classification; whereupon, Mr. Reid clarified that the Board is notified of Reductions in Force but does not approve them.

In response to a query by Chair Davis, Ms. Davis related that there are no other administrative positions supporting the Lealman Community Redevelopment Area; whereupon, HR Assistant Director Maria Ciro indicated that staff is working with the employee in an attempt to find a new position for her.

#### HR Update

Mr. Childress related that an HR update is included in the agenda packet, specifying that a request has been made to the Board of County Commissioners (BCC) to approve a \$600.00 employee salary increase, along with a 4.25% general increase; and that a formal request to change the County's medical plan administrator from Cigna to UnitedHealthcare will be presented to the BCC at its August 13 meeting; whereupon, he provided brief information related to turnover rate, terminations, separations, new hires,

and the time it takes to fill positions, indicating that the numbers have remained fairly consistent over the past several months.

In response to a comment and a query by Chair Davis, Mr. Childress indicated that a change to the medical plan administrator was discussed prior to him being hired; that he had a lengthy discussion with the Appointing Authorities regarding the topic; and that there have been issues relating to Cigna's customer service; whereupon, Mr. Childress noted that UnitedHealthcare was the County's provider for 19 years before changing to Cigna.

The meeting was recessed at 4:17 PM and reconvened at 4:25 PM.

#### APPEAL OF TERMINATION

#### Michael Van Hofwegen v. Pinellas County Property Appraiser

The appeal of termination filed by Michael Van Hofwegen, formerly of the Pinellas County Property Appraiser's Office, was presented by Attorney Craig L. Berman, Berman Law Firm, P.A., representing the Appellant, and by Assistant County Attorney Kirby Kreider, representing the Appointing Authority.

Attorney Moore indicated that exceptions and objections submitted by the Appellee would be heard first; whereupon, Attorney Kreider requested that the Board exclude Assistant County Attorney Marshall Brannon from testifying, citing attorney-client privilege. In response, Attorney Berman related that he reserves the right to call Attorney Brannon if the Appellee presents testimony beyond the letter written by Attorney Brannon, which would waive privilege. In rebuttal, Attorney Kreider indicated that there is no intent to introduce any conversations that occurred between Attorney Brannon and his client.

Attorney Moore related that when Attorney Kreider filed her motion regarding this issue, Attorney Berman was notified that she would not be producing Attorney Brannon; whereupon, Attorney Berman indicated that he did not subpoena Attorney Brannon.

Ms. Vecchioli made a motion to exclude Attorney Brannon's testimony based on attorneyclient privilege, unless there is evidence of privilege being waived by the client. The motion was seconded by Mr. Peluso and carried unanimously.

Attorney Moore related that all exhibits included in the appeal packet have been stipulated to by the parties and will not require introduction into evidence through a witness.

At Attorney Moore's request, those planning to testify were sworn in by Ms. Burgess; whereupon, following opening statements, Attorney Moore read into the record the facts stipulated to by the parties.

During testimony, the meeting was recessed and reconvened as follows:

7:00 PM - 7:18 PM 9:31 PM - 9:39 PM

Following opening statements, testimony, cross-examinations, and questioning of the parties and witnesses, Ms. Vecchioli made a motion to waive closing arguments. The motion was seconded by Mr. Peluso and carried 5 to 1, with Mr. Reid dissenting.

Confirming that the members dispensed with the stipulation of facts, Attorney Moore related that the Board may begin its deliberations. She indicated that, in rendering its findings and decision regarding termination appeals, the Board shall decide the following issues:

### 1. Does the Board find that the Appellant committed the activities for which he was terminated?

Mr. Peluso made a motion that the Board find that the Appellant committed the activities for which he was terminated. The motion was seconded by Ms. O'Shea and, following discussion, carried 5 to 1, with Chair Davis dissenting.

### 2. Does the Board find that cause existed for the disciplinary action in that the activities violated the Personnel Rules cited by the Appointing Authority?

Mr. Peluso made a motion that the Board find that cause existed for the disciplinary action in that the activities violated Personnel Rule 6, Paragraph B, Category F: Unauthorized use of Public/Citizen/County equipment or property. The motion was seconded by Ms. Vecchioli and, following discussion, carried 5 to 1, with Chair Davis dissenting.

Mr. Peluso made a motion that the Board find that cause existed for the disciplinary action in that the activities violated Personnel Rule 6, Paragraph B, Category K: Infraction: Violation of Pinellas County Statement of Ethics, Engaging in conduct unbecoming of a County employee or other behavior that affects the public trust or is a poor representation of a County employee. The motion was seconded by Mr. Reid and, following discussion, carried 5 to 1, with Chair Davis dissenting.

Mr. Peluso made a motion that the Board find that cause existed for the disciplinary action in that the activities violated Pinellas County Property Appraiser Personnel Manual Section 2.9 Ethics: Performing, or directing another employee to perform, any of the

following for; themselves; a relative; a friend; an acquaintance; or any other person which results in private gain or results in harming others: Submit changes for real or tangible property value. The motion was seconded by Ms. O'Shea and, following discussion, carried 4 to 2, with Chair Davis and Mr. Reid dissenting.

### 3. Does the Board find that the disciplinary action taken by the Appointing Authority toward the Appellant was appropriate?

Mr. Peluso made a motion that the Board find that the disciplinary action taken by the Appointing Authority toward the Appellant was appropriate. The motion was seconded by Ms. Vecchioli and, following discussion, carried 4 to 2, with Chair Davis and Mr. Reid dissenting.

Attorney Moore restated the Board's decision regarding the appropriateness of the Appointing Authority's disciplinary action toward the Appellant; whereupon, she indicated that the Appellant has 15 calendar days, from the date of this meeting, to file any motion for reconsideration.

#### **ADJOURNMENT**

The meeting was adjourned at 11:52 PM.



Human Resources
Unified Personnel System
Wade Childress
Chief Human Resources Officer

TO: The Honorable Chair and Members of the Unified Personnel Board

FROM: Wade Childress, Chief Human Resources Officer

DATE: September 5, 2024

SUBJECT: FY2025 Pay Plan Adjustments

I recommend a one percent (1%) increase to the minimum of the pay grades and a three and a half percent (3.5%) increase to the maximum of the pay grades, with adjustment of the midpoints accordingly, for the following pay plans effective October 6, 2024:

• Classified Pay Plan

• Firefighter Personnel Pay Plans

This request does not include adjustment to the C13 grade, which will remain at \$18.00 per hour, and C14, which will be adjusted to \$18.72 per hour to account for career path compression.

#### **Background:**

Due to a competitive labor market and difficulty to recruit and retain employees, the lower pay plans were aggressively adjusted in the prior fiscal year. This fiscal year the maximum of the pay grades will be more significantly increased to return the pay plans to a 60% spread, recognize tenured employees, and limit the increased budget impact of new hire salaries.

I appreciate your consideration of this request.

#### Attachment:

- FY 25 Draft Classified and Firefighter Pay Plans

### **FY25** Draft Classified and Firefighter Pay Plans

Grade	Hourly Minimum	Hourly Midpoint	Hourly Maximum	Annual Minimum	Annual Midpoint	Annual Maximum
C13	\$ 18.00	\$ 21.13	\$ 24.25	\$ 37,440.00	\$ 43,940.05	\$ 50,440.10
C14	\$ 18.72	\$ 22.04	\$ 25.36	\$ 38,937.60	\$ 45,840.60	\$ 52,743.60
C15	\$ 18.72	\$ 22.65	\$ 26.50	\$ 39,116.90	\$ 47,114.29	\$ 55,111.68
C16	\$ 19.12	\$ 23.40	\$ 27.68	\$ 39,768.14	\$ 48,667.01	\$ 57,565.87
C17	\$ 19.43	\$ 24.19	\$ 28.94	\$ 40,419.39	\$ 50,305.84	\$ 60,192.29
C18	\$ 19.70	\$ 24.96	\$ 30.23	\$ 40,965.60	\$ 51,924.44	\$ 62,883.29
C19	\$ 20.07	\$ 25.83	\$ 31.60	\$ 41,742.90	\$ 53,733.94	\$ 65,724.98
C20	\$ 20.66	\$ 26.86	\$ 33.05	\$ 42,982.37	\$ 55,860.64	\$ 68,738.90
C21	\$ 21.57	\$ 28.05	\$ 34.52	\$ 44,873.09	\$ 58,334.48	\$ 71,795.88
C22	\$ 22.54	\$ 29.31	\$ 36.07	\$ 46,889.86	\$ 60,957.47	\$ 75,025.08
C23	\$ 23.56	\$ 30.63	\$ 37.69	\$ 49,011.66	\$ 63,708.32	\$ 78,404.98
C24	\$ 24.62	\$ 32.01	\$ 39.39	\$ 51,217.50	\$ 66,576.54	\$ 81,935.57
C25	\$ 25.73	\$ 33.45	\$ 41.17	\$ 53,528.38	\$ 69,583.38	\$ 85,638.38
C26	\$ 26.90	\$ 34.96	\$ 43.02	\$ 55,944.30	\$ 72,718.10	\$ 89,491.90
C27	\$ 28.11	\$ 36.53	\$ 44.96	\$ 58,465.26	\$ 75,991.45	\$ 93,517.63
C28	\$ 29.37	\$ 38.18	\$ 46.99	\$ 61,091.26	\$ 79,414.19	\$ 97,737.12
C29	\$ 30.69	\$ 39.90	\$ 49.10	\$ 63,843.31	\$ 82,986.07	\$ 102,128.83
C30	\$ 32.08	\$ 41.70	\$ 51.32	\$ 66,721.41	\$ 86,728.62	\$ 106,735.82
C31	\$ 33.52	\$ 43.57	\$ 53.62	\$ 69,725.55	\$ 90,631.06	\$ 111,536.57
C32	\$ 35.04	\$ 45.54	\$ 56.05	\$ 72,876.75	\$ 94,725.44	\$ 116,574.12
C55	\$ 18.18	\$ 39.39	\$ 60.61	\$ 37,814.40	\$ 81,941.18	\$ 126,067.97
F21	\$ 18.18	\$ 23.47	\$ 28.75	\$ 37,814.40	\$ 48,809.59	\$ 59,804.78
F25	\$ 21.44	\$ 27.87	\$ 34.30	\$ 44,599.98	\$ 57,971.89	\$ 71,343.79



Human Resources
Unified Personnel System
Wade Childress
Chief Human Resources Officer

TO: The Honorable Chair and Members of the Unified Personnel Board

FROM: Wade Childress, Chief Human Resources Officer

DATE: September 5, 2024

SUBJECT: Human Resources Career Paths Recommendation

I recommend that the members of the Unified Personnel Board approve the following actions, effective September 5, 2024:

- Adopt career paths for the HR Technicians, HR Specialists, and Business Support
  Specialist 2 classifications within Human Resources. This is aligned with Personnel Rule
  3: Compensation, C.1.f. Career Path Increase.
  - O Career path increases are up to 2% base pay adjustments, not to exceed the maximum pay rate of the employees' job classification, due to professional development and career progression. Employees who apply new knowledge and skills that benefit the County and have been acquired through a defined job-related training, education, certification, and/or licensure path are eligible for a career path increase. A career path shall be established in advance to define the criteria for incremental increases.

The Human Resources leadership team has established career paths for employees within the HR Technician and HR Specialist classifications to recognize individuals as they obtain new knowledge and skills that benefit their current position. All career paths contain three levels that outline the steps required to advance. Level 1 does not include a 2% increase as this is the most basic knowledge and skills that must be achieved to be successful in the role. Successful completion of level 2 and 3 will each come with a 2% career path increase. Once an employee successfully completes all levels of their career path, they will have obtained the knowledge and skills needed to prepare them for advancement. The HR Technician and HR Specialist are our most entry-level classifications, and these paths will help ensure their success and movement within the pay range.

These actions by the Board are necessary since the Chief Human Resources Officer's delegated authority does not apply to actions within the Human Resources Department.



# Human Resources Helping U Succeed

## HR Update for September (August 2024 Updates)

#### **Internal Happenings**

- Updated the division names to better represent the work they do: Planning & Performance is now HR Business Partners & Employee Relations, Workforce Strategy is now HR Operations & Recruitment (this includes Classification & Compensation; HRIS; and Contracts, Budget & Logistics); Communications & Outreach is now Employee Communications & Volunteer Services, and Benefits is now Benefits & Wellness. Learning & Development remains the same.
- Benefits Director True Kelly-Martin will be joining our team on September 9.

#### **Benefits & Wellness**

- Cigna to UMR (UnitedHealthcare) in 2025: We announced the upcoming change to all employees and will continue to provide updates throughout the rest of the year.
- Upcoming screenings: Mammography Bus on August 26 and September 16, OnSpot Dermatology Bus on September 10.
- Introduced FEDlogic, an independent resource to provide support for employees and their families in navigating their federal and state benefit options such as Medicare, Medicaid, Social Security, disability, etc. We received positive feedback from employees and have over 150 employees registered for two webinars.

#### **Communications & Outreach**

- Worked on enhancements to the *Pen* newsletter based on feedback from employees and the Employees' Advisory Council (EAC). We presented the new email format to the EAC Representatives and have received extremely positive feedback. We plan to launch the new format in October.
- Assisting BTS with enhancing their communication regarding Okta Verify. BTS will no longer be offering SMS (text messaging) for Okta's multifactor authentication. All County employees will need to download the Okta Verify app on a mobile device or request a fob key (YubiKey) from BTS before September 1.
- We are conducting a survey of field employees to see how we can better communicate important HR initiatives to employees who have limited access to email and digital communications. The survey closes August 30.
- As a result of the recent Field Supervisors Survey, we launched a monthly Field Supervisors
  Talking Points/News to Share, which is a quick, one-page document with that month's top
  news from HR that is emailed to field supervisors. They can either forward the document,
  which also includes pertinent flyers, or print and display/distribute to their employees.

#### **Learning & Development**

Nineteen Pinellas County employees received their Certified Public Manager (CPM)
designation from Florida State University in August. The graduates completed a rigorous
eight-level program over 30 months, including 31 days of classroom instruction, plus required
projects and exams.

• Another round of Boot Camp: Leadership Essentials came to a close on August 15. Cohort 10 begins on September 10.

#### **Planning & Performance**

• Business Partners and Benefits team have partnered to visit many County departments to offer presentations to employees on Benefits and other HR related services.

#### Workforce Strategy - Recruitment / HRMS / Classification & Compensation

- The time to fill in July was 61.6 days.
  - o 71 new hires in July.
  - 38 promotions occurred in July.
- Year-to-date annualized turnover was 15.1% with 33 separations in July. Rolling 12-month turnover is 14.5%.
  - 9 terminations
  - o 2 retirements
  - o 22 resignations



#### Chief Human Resources Officer Action Taken Under Authority Delegated by the Unified Personnel Board

The Chief Human Resources Officer, having been granted delegated authority to act on behalf of the Unified Personnel Board, has taken the following actions from July 29, 2024 through August 30, 2024.

#### ADDITION

IDDITION (				
Spec No.	Title	EEO4 Code	OT Code	PG
14655	Business Systems Analyst	Technicians	Exempt	E22
11227	Departmental GIS Analyst	Professional	Classified/Excluded	C28
23305	SES Financial & Budget Manager	Officials & Admin	Exempt	E28
20286	Benefits Director	Officials & Admin	Exempt	E35

#### **REVISIONS**

Spec No.	Title	PG
01520	Management Intern	C55
12160	Building Inspector 1	C20
12110	Electrical Inspector 1	C20
12060	Mechanical Inspector 1	C20
12010	Plumbing Inspector 1	C20
17063	Utilities Operations Specialist 3	C21

#### **PAY GRADE CHANGE**

Spec No.	Title	Old PG	New PG
02200	Programmer Analyst 3	C32	150
14548	Computer Systems Specialist	C27	150

#### TITLE CHANGE & REALLOCATION

Spec No.	Old Title	New Title	Old PG	New PG
20578	GIS Analyst	PAO GIS Analyst	C28	150

### THE PINELLAS COUNTY UNIFIED PERSONNEL SYSTEM BOARD

_	TERMINATION AN HOFWEGEN
	Appellant,

IN RF:

vs. Appeal No. 24-1

PINELLAS COUNTY PROPERTY APPRAISER,

Appellee.	
	/

#### APPELLANT'S MOTION FOR RECONSIDERATION

Appellant, MICHAEL VAN HOFWEGEN, by and through his undersigned counsel, respectfully moves the Board to reconsider its decision that termination from employment was an appropriate penalty.

In reconsidering Appellant's penalty and whether he has been subjected to differential treatment, the Board should consider the final warning issued to Enlio Freyle, Residential Appraiser II, who received a final written warning from Kevin Hayes on March 29, 2024 after Mr. Freyle made material changes to his residence in the appraisal records. Mr. Freyle had a lengthy list of infractions including use of his position for private gain, conduct unbecoming and abuse of trust (**Exhibit A**). The testimony of the PAO witnesses was that appraisers do not appraise their own homes. Yet, Mr. Freyle did so.

The Board members divided 4-2 whether termination was an appropriate remedy for Appellant's research regarding effective ages of residences in his taxing area. That research accessed data stored in the CAMA. There was no evidence that Appellant attempted to exploit the results of that research—which revealed homes with effective ages that were beneath 60 percent good.

The catalyst for that limited research effort was a representation made by Jacqueline C. Warr, Residential Director, to Appellant in the meeting on February 29, 2024 that his home had to be rated 60 percent good – even if pictures of the interior demonstrated a higher effective age was warranted – because he was living in the residence. Warr denies making the representation that his home had to be rated 60 percent good – even admitting in her testimony it would be wrong to say this to Appellant.

There is no genuine dispute that the information Appellant researched (effective age) was not exempt from the Florida Public Records law. This was information which the PAO would have been obligated to share with Appellant. The February 29, 2024 meeting was unscheduled and was a misuse of the PAO's authority and the Sunshine Law. The PAO treated the February 29 meeting as an informal de facto Value Adjustment Board proceeding with itself as the judge.

The PAO could **not** place the burden on Appellant to disprove the reduction in effective age from 45 to 27. The Taxpayer Bill of Rights, section 192.0105(2), Florida Statutes, provides in pertinent part:

- 2) THE RIGHT TO DUE PROCESS.—
- (a) The right to an **informal conference** with the property appraiser to present facts the taxpayer considers to support

changing the assessment and to have the property appraiser present facts supportive of the assessment upon proper request of any taxpayer who objects to the assessment placed on his or her property (see s. 194.011(2)).

Warr knew as of February 28, 2024 Katherine Seay questioned the existence of the non-existent policy and assumptions which justified the change in effective age from 45 to 27.

The meeting on February 29 was misconduct. The PAO does not preside over Value Adjustment Board (VAB) hearings and cannot demand photographs on pain of an arbitrary reduction in effective age. Warr said such a policy does not exist but she ordered the reduction in effective age to 27.

The PAO articulated a fabricated justification for the reduction in effective age. Ms. Seay had a right – and arguably a civil duty to her fellow citizens – to challenge its existence. Appellant was ultimately punished for Ms. Seay's advocacy. Appellant was not trying to avoid paying \$3,000 in additional property taxes. Appellant's wife had pictures showing that the interior had not been improved since the purchase in 2023 and had every reason to welcome a VAB proceeding. And Appellant did not invite such a hearing on February 29, 2024 in which the PAO set itself up as the *de facto* decision-maker based on the participation of the PAO's chain of command.

An issue before this Board was the PAO's integrity and abuse of authority. Warr admitted in the hearing that the "physical inspection" required of a newly purchased home she referred to in her February 29, 2024 email does not entail inspection of the interior. The PAO's untruthful and less than candid communications prompted Appellant's research which was not motivated by private gain. Appellant's wife would have turned over the

pictures in February 2024 if she wanted to secure a private gain (obtain increase in effective in age of the residence).

The PAO's concern for ethics should have been self-directed. Appellant was unsure if Warr was telling the truth and he conducted historical research. Appellant was singled out for mistreatment as a taxpayer and ultimately as an employee. Appellant was subjected to retaliation as if he was a disloyal whistleblower. The undeserved retaliation continued throughout the hearing.

Section 112.313(8), Florida Statutes, does not govern the PAO. This section provides:

A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

This section reflects a common understanding that public employees may reveal information otherwise available to the public **or** information "relating exclusively to government practices" notwithstanding any incidental gain or benefit. Section 112.313(8) is also penal in nature and must be "strictly construed with doubts being resolved in favor of the employee." <u>Loebig v. Fla. Commission on Ethics</u>, 355 So.3d 527, 530 (Fla. 1st DCA 2023).

Appellant was never on notice that he not could research what PAO represented was its standard tax-appraisal practices. The tax records maintained by the PAO are

available to members of the general public. The Taxpayer Bill of Rights strongly refutes

discharge as an appropriate penalty. Appellant would be within his right to have the PAO

perform the research on parcels similar to his.

Discharge is wholly disproportionate to the alleged misconduct as is demonstrated

by Mr. Freyle's Level 3 Final Written Warning. The PAO used its power over Appellant to

make him attend a meeting where he was provided representations from management

officials that a policy actually existed allowed arbitrary treatment of his home's effective

age. By representing that the change in the effective age was pursuant to PAO policy, the

PAO is estopped from claiming that simple research into its alleged policy conferred a

private gain.

WHEREFORE, Appellant should be reinstated with back-pay minus a one-week

suspension.

Respectfully submitted,

By: /s/ C

/s/ Craig L. Berman

Craig L. Berman, Esquire BERMAN LAW FIRM, P.A.

Fla. Bar No. 068977

111 Second Ave. N.E.

Suite 706

St. Petersburg, FL 33701

Phone: (727) 550-8989

Fax: (727) 894-6251

craig@bermanlawpa.com

ATTORNEY FOR APPELLANT

-5-

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email upon Kirby Kreider <a href="kkreider@pinellas.gov">kkreider@pinellas.gov</a> and Jennifer Monrose Moore at <a href="jennifer.moore@ogletree.com">jennifer.moore@ogletree.com</a> on this 15th day of August, 2024.

/s/ Craig L. Berman Craig L. Berman, Esq.



### **Disciplinary Notice: Level 3 Final Written Warning**

To:

Enlio Freyle

Title:

Residential Appraiser 2

**Employee #:** 102672

From:

Kevin D. Hayes

Title:

Deputy of Appraisals

**Department:** Appraisal

#### Distribution:

• Department File

• Human Resources (for employee's Human Resources personnel file) - Scan and email to HRExecOffices@pinellas.gov or send by interoffice mail to the Director of Human Resources.

Date: 03/29/2024

**Infraction(s)**: Personnel Rule 6, Paragraph B, Category(ies), Infraction(s):

Categories	Infractions
Category K - The Employee Has Engaged in Conduct Unbecoming of an Employee of the County	Violation of Pinellas County Statement of Ethics
Category K - The Employee Has Engaged in Conduct Unbecoming of an Employee of the County	Engaging in conduct unbecoming of a County employee or other behavior that affects the public trust or is a poor representation of a County employee
Pinellas County Property Appraiser Personnel Manual – 2.9 Ethics	Performing, or directing another employee to perform, any of the following for; themselves, a relative, a friend, an acquaintance or any other person which results in private gain or results in harming others:  • Process a Homestead Exemption application,  • Change a Homestead Exemption,  • Process a tax refund, or  • Submit changes for real or tangible property value.

#### **Summary of Facts/Incidents Leading to This Action:**

A review of a parcel owned by Enlio Freyle, 5046 38<sup>th</sup> St. S., St Petersburg (03-32-16-56178-000-0030) resulted in the discovery of multiple changes made by Enlio specific to his own personal property.

- 08/15/2022: Completed a permit (22-07000222) for a driveway, no value change made.
   Driveways are not picked up as a characteristic. Edited building notes, adding note on new driveway, no value change made.
- 01/20/2023: Building effective age changed from 44 to 30. Revised building exterior walls from concrete block (code 4) to concrete block/stucco (code 5). Just Value changed from \$297,366 to \$391,500. Aerial inspection was logged.
- 02/16/2023: Building effective age changed from 30 to 25. The Just Value changed from \$393,631 to \$439,601. Aerial inspection was logged. Building fixture count changed from 7 to 8. The Just Value changed from \$439,601 to \$441,749.
- 02/02/2024: Added an 80 SF Shed (Code 0700). No change in value made. Sheds under 100 SF are typically added at no-value for reporting purposes.
- It should be noted that the just value changes made did not impact assessed or taxable value, since a homestead exemption and Save-Our-Homes cap were established on the property in 2015.
- Enlio was counseled on his actions which were noted to be in violation of the Pinellas County
  Property Appraiser Personnel Manual 2.9 Ethics. Specifically, making changes to real property
  which results in private gain to themselves, a relative, a friend or acquaintance. The property in
  question is in Area 01, which Enlio currently manages. We were unable to locate any recent
  listings of the property.
- A director review of the changes Enlio made to his property were not found to be unreasonable based on the condition of the property in relation to other similar properties in the surrounding area.

#### **Necessary Corrective Action:**

Enlio needs to insure that in the future that he does not make any changes to his own personal residence or any property in Pinellas County of which he has an interest. This is imperative as to maintain public trust and uphold the highest ethical standards expected by our appraisal staff. The above referenced incidents reflect poor judgement, and we believe that Enlio is remorseful for his actions, understands why this is an important matter and we are confident that it will not happen again. Additionally, he was very adamant regarding his lack of intent to sell this property. Enlio will be required to re-review our Personnel Manual, in particular our ethical standards, and execute a new acknowledgement of his review of our policies and Personnel Manual.

Based on the information we discussed at your Pre-Disciplinary Hearing on 03/28/2024 you are receiving a final written warning. This is a written warning in lieu of suspension.

A copy of this document will remain active (in your personnel file) for at least twelve (12) months. While this document is active, it may be considered by hiring supervisors when making promotional

decisions. Additionally, the behavior documented in this notice will also be addressed in your next performance review and may affect pay adjustments, if applicable.

If you have further performance or behavioral issues, this disciplinary action can be considered. This is true whether the document is active or inactive. Further performance or behavioral issues, whether similar or different, can lead to further discipline, up to and including dismissal.

If the Appointing Authority has determined the problem necessitating the discipline has been corrected by the employee, and additional performance, or behavior problems have not occurred during the designated time frame, and/or no other formal disciplinary action has been administered, the discipline will be inactivated unless the Appointing Authority requests an extension. Even if inactive, all documentation will be retained as a part of the personnel file and available in accordance with Chapter 119, Florida Statutes. The determination of the Appointing Authority regarding inactivation is final.

An Appointing Authority may elect to defer a general increase until such time as all discipline is inactive. Upon inactivation of all discipline, the employee shall be granted the general increase prospectively in the same rate and amount provided to all eligible employees in the employee's associated pay grade during that fiscal year, to be paid effective the first day of the payroll period following the inactivation of the disqualifying discipline.

If you believe this discipline is in error, you may grieve it, in accordance with Personnel Rules 6 and 7. To do so, you must file a grievance in writing on the form provided by the Human Resources Department within 15 calendar days from the date you receive this notice.

Jeff Havnes Residential Director

If you have any questions about this action, please notify me or the manager(s) listed below:

I received, read and understand this document. (By one waive your right to grieve.)	checking this box, it does not indicate your agreement
Files charle &	03-29-2024
Employee Signature	Date
Cer A AS	03/29/2024
Department Signature	Date
Check One: This Notice was   Hand Delivered on 03/  Sent via Regular & Ce	/29/2024 rtified Mail (return receipt #)

### THE PINELLAS COUNTY UNIFIED PERSONNEL SYSTEM BOARD

IN RE:	
APPEAL OF TERMINATION MICHAEL VAN HOFWEGEN,	
Appellant,	
vs.	Appeal No. 24-1
PINELLAS COUNTY PROPERTY APPRAISER,	
Appellee.	_/

#### APPELLANT'S AMENDED MOTION FOR RECONSIDERATION

Appellant, MICHAEL VAN HOFWEGEN, by and through his undersigned counsel, respectfully moves the Board to reconsider its 4-2 decision that termination from employment was an appropriate penalty.

#### I. STANDARD FOR GRANTING RECONSIDERATION

Section 11 of the Appellate Procedures provides that a motion for reconsideration can be granted if:

The proposed modification or amendment is based upon evidence previously presented or is based upon newly discovered evidence which, by due diligence, could not have been discovered prior to the appeal hearing; and

A showing is made that the Board's decision was made through or based upon fraud, collusion, deceit, or mistake of fact or law. II. NEWLY DISCOVERED EVIDENCE REQUESTED BEFORE AND WITHHELD UNTIL AFTER THE HEARING SHOWS THAT DISCHARGE WAS NOT THE

APPROPRIATE REMEDY

In reconsidering Appellant's penalty and whether he has been subjected to

differential treatment, the Board should consider the final warning issued to Enlio Freyle,

Residential Appraiser II, who received a final written warning from Kevin Hayes on March

29, 2024 after Mr. Freyle made material changes to his residence in the appraisal records.

Mr. Freyle had a lengthy list of infractions including use of his position for private gain,

conduct unbecoming and abuse of trust (Exhibit A). The testimony of the PAO witnesses

was that appraisers do not appraise their own homes (Tr. 44). Mr. Freyle did so.

Appellant requested Mr. Freyle's disciplinary records prior to the hearing in this

matter and was advised that no exist (Exhibit B). Thus, the records constitute newly

discovered evidence.

III. THE OVERLY HARSH PENALTY OF DISCHARGE REFLECTS AN ERROR OR MISAPPREHENSION OF LAW BECAUSE APPELLANT DID NOT VIOLATE

SECTION 112.313(8), FLORIDA STATUTES, OR THE PINELLAS COUNTY

STATEMENT OF ETHICS

The Board members divided 4-2 whether termination was an appropriate remedy

for Appellant's research regarding effective ages of residences in his taxing area. That

research accessed data stored in the CAMA. There was zero evidence that Appellant

attempted to or formed a plan to somehow exploit the results of that market research by

demanding an increase in the property's effective age.

Appellant testified:

Craig Berman: Did CAMA disclose percent good. Is that some

field?

-2-

**Michael Van Hofwegen:** It did not um, this uh search that I did.

**Craig Berman:** The search you did you just attract effective age?

Michael Van Hofwegen: I just looked at effective ages.

**Craig Berman:** All right. Um, did you capture any confidential address or.

**Michael Van Hofwegen:** There's nothing confidential that I, that I have access to, for example, Social security numbers, the exemptions. People have access to that data. We are locked out of of that field because we simply don't have any business to look at it. And I don't want to, I don't want to have access to it. Um, I don't want to look at people's social security numbers.

(Tr. 184).

Although Appellant did not obtain "percent good" figures, the calculation of percent good is not a secret or insider information The formula is as follows:

#### Percent Good = 1 minus (Effective Age/Life Expectancy) x 100%

The life expectancy of a home is 90 years. A home with an effective age of 27 is 70 percent good. Appellant's home received an effective age of 37 after pictures were delivered to the PAO. Appellant's home is now rated 60 percent good because (1 - (37/90) = .5889). Siragusa's testimony that such data is deep inside CAMA is false and embellished (Tr. 51) – which is not surprising because his chain of command was in attendance and listening to him.

But the records maintained in CAMA (other than social security numbers) are not protected from disclosure under Chapter 119. Consequently, a Level 4 infraction and discharge for viewing public records is not warranted. Appellant can be criticized for

conducting what is tantamount to a self-fulfilled public records request. But records in CAMA are available to <u>any</u> taxpayer upon request whether or not employed by the PAO. The name of the area appraiser is also public information (**Exhibit C**).

The board members upholding Appellant's discharge focused on the Pinellas County Statement of Ethics (Tr. 213). Member Vecchioli believed that Appellant accessed "CAMA for private gain" (Tr. 212), and that the information on 1700 parcels was the private gain. Member O'Shea opined that the "ethical violation is the fact that he thought to use all this stuff that was available to him and **not to the public**, to gain information that could help him." (Tr. 209).

Member Davis did not discern any "private gain." (Tr. 207). Member Davis recognized:

Ricardo Davis: Yeah. Well, let me let me make a couple of observations. Um, when we start getting into the realm of determining whether something is ethical or not, I fully understand that that sometimes is a little bit subjective. Um, different people might have different interpretations about what ethical behavior is or isn't. And um, once we get in there, I'm looking for more hard evidence of some action that was taken for which the person was terminated. Um, but I get it. I just I'm not going there because I can't go there just because, you know, there's a difference of opinion in this board. That's not the way I, you know, so I.

(Tr. 211).

Member Davis' view that Appellant did not commit a violation of law or ethics by accessing CAMA data is correct (Tr. 205-06). There are no rules offered in evidence proscribing such access (Tr. 185-86). Appellant did not access any non-public **privileged** records and never expected to receive anything of value other than, if possible, the truth

#### (Tr. 192). Appellant testified:

**Kirby Kreider:** Right? But I couldn't log into CAMA and get them, I don't have I couldn't Google Pinellas County CAMA and then pull it up myself.

**Michael Van Hofwegen:** You can call your area appraiser and they're happy to give it to you.

**Kirby Kreider:** Is that what you did here or did you do it yourself?

**Michael Van Hofwegen:** Uh, I was doing market research on my own.

Kirby Kreider: In CAMA.

**Michael Van Hofwegen:** Due to the fact that I was prompted to by Jackie Warr's comment.

**Kirby Kreider:** Okay, so whatever your motivation, we agree that you were using your access to CAMA to do the research or however you want to phrase it.

**Michael Van Hofwegen:** Yes. Market research.

(Tr. 192).

The Pinellas County Statement of Ethics does not justify discharge.

#### <u>Pinellas County Statement of Ethics</u>

WE, the employees of Pinellas County, as providers of public service; and, in order to inspire confidence and trust, are committed to the highest standards of personal integrity, honesty and competence.

To This End We Will

Provide open and accessible government, giving courteous, responsive service to all citizens equally.

Accept only authorized compensation for the performance of our duties and respectfully decline any offers of gifts or gratuities from those with whom we do business.

Disclose or report any actual or perceived conflicts of interest.

Comply with <u>all laws</u> and regulations applicable to the County and impartially apply them to everyone.<sup>1</sup>

Neither apply nor accept improper influences, favoritism and personal bias.

Use County funds and resources efficiently, including materials, equipment and **our time**.

Respect and protect the <u>privileged</u> information to which we have access in the course of our duties, never using it to stir controversy, to harm others or for private gain.

Recognizing that government must serve the best interests of all citizens, we stand as representatives of responsible government, acting at all times to merit public confidence in ourselves and Pinellas County.

Section 112.313(8), Florida Statutes, governs PAO employees. Section 112.313(8) is penal in nature and must be "strictly construed with doubts being resolved in favor of the employee." Loebig v. Fla. Commission on Ethics, 355 So.3d 527, 530 (Fla. 1st DCA 2023). The Members had doubts about the propriety of discharge as an appropriate penalty (Tr. 206-16).

Section 112.313(8) is an objective rule of law which balances various governmental and non-governmental interests and provides:

A current or former public officer, employee of an agency, or local government attorney may not disclose or use information

<sup>&</sup>lt;sup>1</sup>Query: Is research aimed at determining whether or not an employee has suffered a punitive loss – imposed precisely because Appellant worked for the PAO and was held to an imprecise standard of transparency – a private gain? Inflicting a private loss on an employee-taxpayer likely violates the Pinellas County Statement of Ethics.

not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

The public availability of CAMA records is not in doubt. Appellant never even published or obtained public information for use in a scheduled proceeding or meeting. Florida law provides that a public employee is not paralyzed from revealing information if that same information is otherwise available to the public. Moreover, information "relating exclusively to government practices" may be used notwithstanding any incidental gain or benefit.

The statutory language in section 112.313(8) authorizing disclosure or use of information otherwise available to the public is fully consistent with section 839.26, Florida Statutes. Section 839.26 does not restrict use of information obtained by an employee in his official capacity unless the information "has <u>not</u> been made public." Courts interpreting state statutes containing language in section 839.26 overwhelmingly hold that "information to which the public does not generally have access" must be information "that is prohibited from disclosure" under the corresponding public records law. <u>See Tidwell v. State</u>, 2013 WL 6405498, at \*11 (Tex. App. 2013). "Where information is accessible from other potential sources, it cannot satisfy the non-public element of the statute." <u>State v. L.D.</u>, 130 A.3d 590, 597 (N.J. Super. A.D. 2016).

Section 839.26 other similar state statutes were adopted from Model Penal Code § 243.2. State v. L.D., 130 A.3d 590, 597 n.10 (N.J. Super. A.D. 2016). "Section 243.2 deals with a completely different kind of defalcation by public employees. Specifically, it

covers situations where personal gain is sought by the acquisition of property or by financial speculation in cases where the employee has access to inside information by virtue of his employment. It applies both to official action to be taken by the public employee or some governmental unit with which he is associated and to information to which he has access in his official capacity and that has not been made public. It also applies if the official aids any other person to engage in the same type of activity on the basis of inside information." 130 A.3d at 597 n.10. The "effective age" of a residence is a public record.

#### IV. MITIGATING FACTORS

The catalyst for Appellant's limited research effort was a representation made by a government official, Jacqueline C. Warr, Residential Director, to Appellant in the meeting on February 29, 2024 that his home had to be rated 60 percent good – even if pictures of the interior demonstrated a higher effective age was warranted – because he was living in the residence (Tr. 181). Warr denies making the representation that Appellant's home had to be rated 60 percent good – even admitting in her testimony it would be wrong to say this to Appellant.

There is no genuine dispute that the information Appellant researched (effective age) was not exempt from the Florida Public Records law. This was information which the PAO would have been obligated to share with Appellant. The February 29, 2024 meeting was unscheduled and was a misuse of the PAO's authority and the Sunshine Law. The PAO treated the February 29 meeting as an informal de facto Value Adjustment Board proceeding with itself as the judge.

The PAO could **not** place the burden on Appellant to disprove the reduction in effective age from 45 to 27. The Taxpayer Bill of Rights, section 192.0105(2), Florida Statutes, provides in pertinent part:

#### 2) THE RIGHT TO DUE PROCESS.—

(a) The right to an **informal conference** with the property appraiser to present facts the taxpayer considers to support changing the assessment and **to have the property appraiser present facts supportive of the assessment upon proper request of any taxpayer** who objects to the assessment placed on his or her property (see s. 194.011(2)).

Warr knew as of February 28, 2024 Katherine Seay questioned the existence of the non-existent policy and assumptions which justified the change in effective age from 45 to 27. Seay's concern was ethics. She testified:

Jackie explained what this why this change occurred and then went back. He explained that in a text, and I said, I said, I don't understand. I don't, how can they try to get into your house? Like it was just like what? I was shocked. Yeah. So, um, you know, the more I sat on it, the more I said, you can't hold \$150,000 worth of value unless you get access. But that's what it was about. Like, you either let me in or you're going to pay. And that was so upsetting to me. Like it's not fair. You can't do that to the PAO employees. I'm a county employee. You can't do that to me. You can't do that to the citizens of this county. And that's why I was so upset. So I sent the email and actually, it was emotional, but that email wasn't that bad. It was saying, here's three scenarios. How do you know someone's doing work in their house like that? Jackie or Sara said, yeah, if we walk up and there's lumber, yeah, we're going to ask for it. What, are you kidding me? You can't do that.

(Tr. 160).

The meeting on February 29 was a misuse of PAO resources and time. It was intended to forestall a public records request contemplated by Seay by pressuring

Appellant. The PAO does not preside over Value Adjustment Board (VAB) hearings and cannot demand photographs on pain of an arbitrary reduction in effective age. Warr said such a policy does not exist but she personally ordered the reduction in effective age to 27.

The PAO articulated a fabricated justification for the reduction in effective age. Ms. Seay had a right – and arguably a civic duty to her fellow citizens – to challenge its existence. Appellant was ultimately punished for Ms. Seay's advocacy. Appellant was not trying to avoid paying \$3,000 in additional property taxes. Appellant's wife had pictures showing that the interior had not been improved since the purchase in 2023 and had every reason to welcome a VAB proceeding. And Appellant did not invite or request such a hearing on February 29, 2024 in which the PAO set itself up as the *de facto* decision-maker based on the participation of the PAO's chain of command.

An issue before this Board was the PAO's integrity and abuse of authority. Warr admitted in the hearing that the "physical inspection" required of a newly purchased home she referred to in her February 29, 2024 email does not entail inspection of the interior. The PAO's untruthful and less than candid communications prompted Appellant's research which was not motivated by private gain. Appellant's wife would have turned over the pictures in February 2024 if she wanted to secure a private gain (obtain increase in effective in age of the residence).

The PAO's concern for ethics is myopic. Appellant was unsure if Warr was telling the truth and he conducted historical research. Appellant was singled out for mistreatment as a taxpayer and ultimately as an employee. Appellant was subjected to retaliation as if he was a disloyal whistleblower. The undeserved retaliation continued throughout the hearing.

Appellant was never on notice that he not could research what PAO represented was its standard tax-appraisal practices. The tax records maintained by the PAO are available to members of the general public. The Taxpayer Bill of Rights strongly refutes discharge as an appropriate penalty. Appellant would be within his right to have the PAO perform the research on parcels similar to his.

#### V. CONCLUSION

Discharge is wholly disproportionate to the alleged conduct. Mr. Freyle received a Level 3 Final Written Warning for actually manipulating his taxable value. Appellant did no such thing. The PAO represented on February 29, 2024 that a policy actually existed which allowed arbitrary treatment of his home's effective age. By representing that the change in the effective age was pursuant to PAO policy, Appellant was permitted and arguably obligated to research its existence.

WHEREFORE, Appellant should be reinstated with back-pay.

Respectfully submitted,

By: /s/ Craig L. Berman Craig L. Berman, Esquire BERMAN LAW FIRM, P.A. Fla. Bar No. 068977 111 Second Ave. N.E. Suite 706 St. Petersburg, FL 33701 Phone: (727) 550-8989

Phone: (727) 550-8989 craig@bermanlawpa.com

ATTORNEY FOR APPELLANT

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email upon Kirby Kreider <a href="kkreider@pinellas.gov">kkreider@pinellas.gov</a> and Jennifer Monrose Moore at jennifer.moore@ogletree.com on this 23rd day of August, 2024.

/s/ Craig L. Berman Craig L. Berman, Esq.



ACTIVE DATE: 3/29/25



### **Disciplinary Notice: Level 3 Final Written Warning**

To:

Enlio Freyle

Title:

Residential Appraiser 2

**Employee #:** 102672

From:

Kevin D. Hayes

Title:

Deputy of Appraisals

**Department:** Appraisal

#### Distribution:

• Department File

• Human Resources (for employee's Human Resources personnel file) - Scan and email to HRExecOffices@pinellas.gov or send by interoffice mail to the Director of Human Resources.

Date: 03/29/2024

**Infraction(s)**: Personnel Rule 6, Paragraph B, Category(ies), Infraction(s):

Categories	Infractions
Category K - The Employee Has Engaged in Conduct Unbecoming of an Employee of the County	Violation of Pinellas County Statement of Ethics
Category K - The Employee Has Engaged in Conduct Unbecoming of an Employee of the County	Engaging in conduct unbecoming of a County employee or other behavior that affects the public trust or is a poor representation of a County employee
Pinellas County Property Appraiser Personnel Manual – 2.9 Ethics	Performing, or directing another employee to perform, any of the following for; themselves, a relative, a friend, an acquaintance or any other person which results in private gain or results in harming others:  • Process a Homestead Exemption application,  • Change a Homestead Exemption,  • Process a tax refund, or  • Submit changes for real or tangible property value.

#### **Summary of Facts/Incidents Leading to This Action:**

A review of a parcel owned by Enlio Freyle, 5046 38<sup>th</sup> St. S., St Petersburg (03-32-16-56178-000-0030) resulted in the discovery of multiple changes made by Enlio specific to his own personal property.

- 08/15/2022: Completed a permit (22-07000222) for a driveway, no value change made.
   Driveways are not picked up as a characteristic. Edited building notes, adding note on new driveway, no value change made.
- 01/20/2023: Building effective age changed from 44 to 30. Revised building exterior walls from concrete block (code 4) to concrete block/stucco (code 5). Just Value changed from \$297,366 to \$391,500. Aerial inspection was logged.
- 02/16/2023: Building effective age changed from 30 to 25. The Just Value changed from \$393,631 to \$439,601. Aerial inspection was logged. Building fixture count changed from 7 to 8. The Just Value changed from \$439,601 to \$441,749.
- 02/02/2024: Added an 80 SF Shed (Code 0700). No change in value made. Sheds under 100 SF are typically added at no-value for reporting purposes.
- It should be noted that the just value changes made did not impact assessed or taxable value, since a homestead exemption and Save-Our-Homes cap were established on the property in 2015.
- Enlio was counseled on his actions which were noted to be in violation of the Pinellas County
  Property Appraiser Personnel Manual 2.9 Ethics. Specifically, making changes to real property
  which results in private gain to themselves, a relative, a friend or acquaintance. The property in
  question is in Area 01, which Enlio currently manages. We were unable to locate any recent
  listings of the property.
- A director review of the changes Enlio made to his property were not found to be unreasonable based on the condition of the property in relation to other similar properties in the surrounding area.

#### **Necessary Corrective Action:**

Enlio needs to insure that in the future that he does not make any changes to his own personal residence or any property in Pinellas County of which he has an interest. This is imperative as to maintain public trust and uphold the highest ethical standards expected by our appraisal staff. The above referenced incidents reflect poor judgement, and we believe that Enlio is remorseful for his actions, understands why this is an important matter and we are confident that it will not happen again. Additionally, he was very adamant regarding his lack of intent to sell this property. Enlio will be required to re-review our Personnel Manual, in particular our ethical standards, and execute a new acknowledgement of his review of our policies and Personnel Manual.

Based on the information we discussed at your Pre-Disciplinary Hearing on 03/28/2024 you are receiving a final written warning. This is a written warning in lieu of suspension.

A copy of this document will remain active (in your personnel file) for at least twelve (12) months. While this document is active, it may be considered by hiring supervisors when making promotional

decisions. Additionally, the behavior documented in this notice will also be addressed in your next performance review and may affect pay adjustments, if applicable.

If you have further performance or behavioral issues, this disciplinary action can be considered. This is true whether the document is active or inactive. Further performance or behavioral issues, whether similar or different, can lead to further discipline, up to and including dismissal.

If the Appointing Authority has determined the problem necessitating the discipline has been corrected by the employee, and additional performance, or behavior problems have not occurred during the designated time frame, and/or no other formal disciplinary action has been administered, the discipline will be inactivated unless the Appointing Authority requests an extension. Even if inactive, all documentation will be retained as a part of the personnel file and available in accordance with Chapter 119, Florida Statutes. The determination of the Appointing Authority regarding inactivation is final.

An Appointing Authority may elect to defer a general increase until such time as all discipline is inactive. Upon inactivation of all discipline, the employee shall be granted the general increase prospectively in the same rate and amount provided to all eligible employees in the employee's associated pay grade during that fiscal year, to be paid effective the first day of the payroll period following the inactivation of the disqualifying discipline.

If you believe this discipline is in error, you may grieve it, in accordance with Personnel Rules 6 and 7. To do so, you must file a grievance in writing on the form provided by the Human Resources Department within 15 calendar days from the date you receive this notice.

Jeff Havnes Residential Director

If you have any questions about this action, please notify me or the manager(s) listed below:

I received, read and understand this document. (By conor waive your right to grieve.)	checking this box, it does not indicate your agreement
Sicio de de	03-29-2024
Employee Signature	Date
Cer A AS	03/29/2024
Department Signature	Date
Check One: This Notice was   Hand Delivered on 03/  Sent via Regular & Ce	29/2024 rtified Mail (return receipt #)

From: <u>Jackson, Ashley</u>

To: Mike

Cc: <u>Jennifer Logan</u>

Subject: RE: Public records request

Date: Monday, July 1, 2024 9:27:21 AM

Attachments: <u>image001.png</u>

image002.png image003.png image004.png image005.png

Enlio Freyle 102672 Personnel File.pdf Enlio Freyle 102672 Assignment History.pdf Enlio Freyle 102672 Salary History.pdf

#### Good morning Michael,

Attached are the records in response to your request for Enlio Freyle. There are no disciplines on file. In addition, the file for Alison Brissette will be available in the next few days.

Please confirm receipt of this email.

Thank you.

Best,

Ashley

## Ashley Jackson

Executive Assistant
Pinellas County Human Resources
400 S. Ft. Harrison Ave. 4th Floor Room 414D
Clearwater, FL 33756

(727) 464-4028

eFax: (727) 453-3573 apjackson@pinellas.gov

All government correspondence is subject to the public records law.

From: Mike <mvanhof1968@gmail.com> Sent: Friday, June 28, 2024 4:41 PM

**To:** Jackson, Ashley <apjackson@pinellas.gov> **Cc:** Jennifer Logan <jennifer@bermanlawpa.com>

Subject: Re: Public records request

Ashley, can you add the Personnel file for PAO employee Alison Brissette please. Also, could you provide me with an ETA for these requests?

Regards, Michael Van Hofwegen 727-460-2928

On Thu, Jun 27, 2024 at 3:33 PM Jackson, Ashley <apjackson@pinellas.gov> wrote:

Good afternoon,

I received your public records request found in the email below.

We are reviewing our records to determine if there are any records responsive to your request and will send it to you as soon as the records have been compiled.

Best,

Ashley

We value your feedback! Please complete a brief <u>Customer Satisfaction Survey</u>.

## Ashley Jackson

**Executive Assistant** 

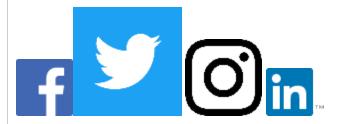
Pinellas County Human Resources

400 S. Ft. Harrison Ave. 4th Floor Room 414D

Clearwater, FL 33756 Main: (727) 464-3367 Direct: (727) 464-4028 eFax: (727) 453-3573 apjackson@pinellas.gov www.pinellas.gov/hr



Follow Pinellas County Government Careers



All government correspondence is subject to the public records law.

From: mvanhof1968@gmail.com <mvanhof1968@gmail.com>

Sent: Thursday, June 27, 2024 12:11 PM

To: Jackson, Ashley <a piackson@pinellas.gov>

**Subject:** Public records request

Good afternoon Ashley,

I would like to request the personnel file for a PAO employee including discipline. Name: Enlio Freyle.

Thank you with your assistance in this matter,

Michael Van Hofwegen 727-460-2928 From: mvanhof1968@gmail.com
To: "Luca, Alexander"
Cc: "Logan, Jennifer"
Subject: Public Records Request

**Date:** Monday, August 5, 2024 3:35:51 PM

Hi Alex,

This is a public records request for the following documents:

- "Footprints" for the following homes:
  - 1. 3392 Dryer Ave Largo FL 33770
  - 2. 5046 38<sup>th</sup> Street S St. Petersburg, 33711
  - 3. 6172 26<sup>th</sup> Ave St. Petersburg, FL 33710
- Data Collection Manual and PAO personnel handbook: I was provided the versions that was updated as of March 2024. I am formally requesting the version prior to that and what changes were made.
- Discipline Documents for the following individuals:
  - -Enlio Freyle
  - -Jennifer Craig
  - -Polly Myers

Electronic format is preferred.

Regards,

Mike V.

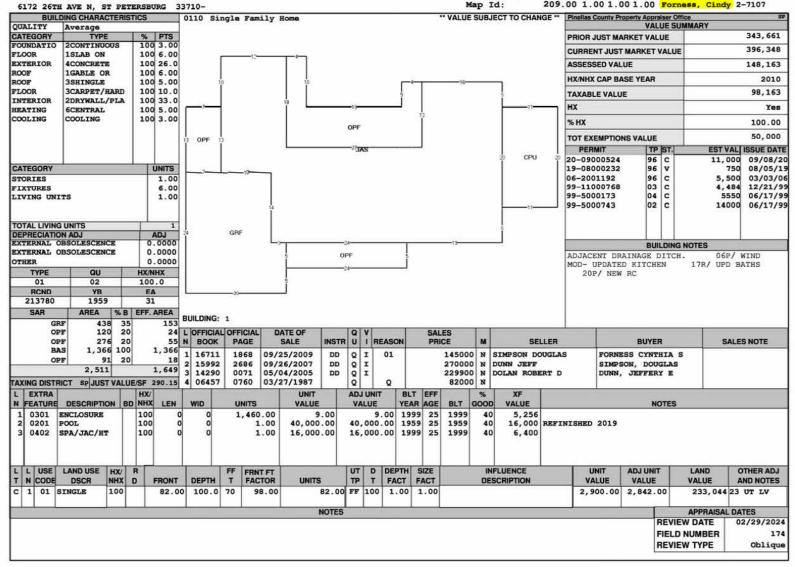
SHERYL MANOR UNIT 6 BLK 6, LOT 20 & W 33FT OF LOT 19 FORNESS, CYNTHIA S 6172 26TH AVE N

2024 08-31-16-81018-006-0200

Page 1 of 2 PRINTED 08/09/2024 BY correction

ST PETERSBURG, FL 33710-4130

BY correction
Map Id: 209.00 1.00 1.00 1.00 Forness, Cindy 2-7107



URBAN LAKE ESTATES 1ST ADD LOT 35

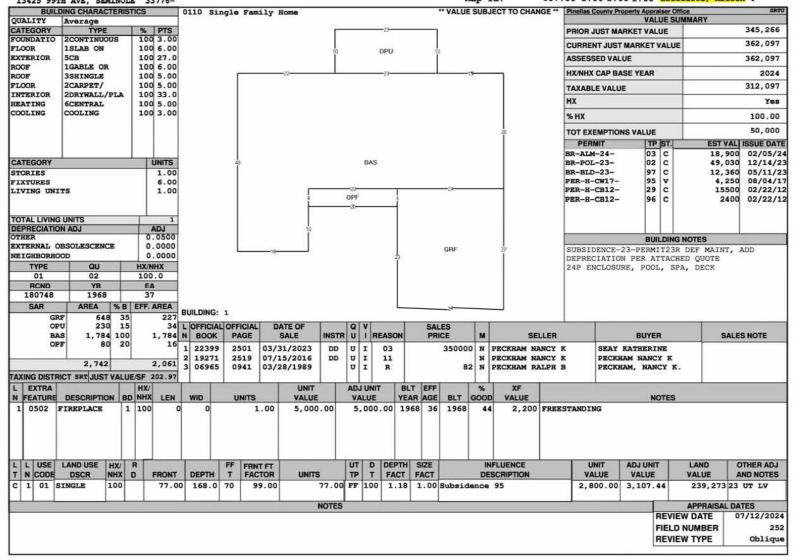
13425 99TH AVE, SEMINOLE 33776-

SEAY, KATHERINE 13425 99TH AVE SEMINOLE, FL 33776-1506

2024 20-30-15-93528-000-0350

Page 1 of 1 PRINTED 08/09/2024 BY correction

607.00 1.00 1.00 1.00 Brissette, Map Id: Alison 4-





Human Resources
Unified Personnel System
Wade Childress
Chief Human Resources Officer

August 23, 2024

Mr. Michael Van Hofwegen 13425 99<sup>th</sup> Ave Seminole, FL 33776

Dear Mr. Van Hofwegen,

This letter is to inform you that we have received your letter requesting a reconsideration of the decision of the Pinellas County Unified Personnel Board reached on August 1, 2024.

I will present this request at the September Board Meeting at 6:30 p.m., on Thursday, September 5, 2024. The meeting will be held in the Board Assembly Room, fifth floor of the Main Courthouse, 315 Court Street, Clearwater.

Prior to the meeting, The Personnel Board and the Appointing Authority will receive a copy of your letter to me. Please plan to attend that meeting if you wish to pursue the matter further.

Sincerely,

Wade Childress

Chief Human Resources Officer

W. alder

cc: Jennifer Monrose Moore, Unified Personnel Board Attorney

Christy Donovan Pemberton, Managing Assistant County Attorney

Marshall Brannon, Assistant County Attorney

Kirby Kreider, Assistant County Attorney

Mike Twitty, Property Appraiser Office

Kevin McKeon, Deputy of Assessment Administration

Steve Knox, Finance & Budget Director

Maria Ciro, Assistant Director for Human Resources

Michelle Musser, Human Resources Business Partner

Sent via Regular and Certified Mail – Return Receipt Requested.

Return Receipt #7022 0410 0003 1682 4271

## THE PINELLAS COUNTY UNIFIED PERSONNEL SYSTEM BOARD

IN RE:

APPEAL OF TERMINATION MICHAEL VAN HOFWEGEN,

Appellant,

VS.

Appeal No. 24-1

PINELLAS COUNTY PROPERTY APPRAISER,

Appellee.

### APPELLEE'S WRITTEN OPPOSITION TO APPELLANT'S MOTION FOR RECONSIDERATION

Appellee, PINELLAS COUNTY PROPERTY APPRAISER, by and through undersigned counsel, submits its Written Opposition to Appellant's Motion for Reconsideration. Appellant sets forth his Motion for Reconsideration in four subsections. For the sake of organization, Appellee addresses each in turn.

### I. Appellant's First Section – Standard for Reconsideration

Appellee agrees with Appellant's recitation of Section 11 of the Appellate Procedures which govern motions for reconsideration. Appellee stresses that Section 11 requires both newly discovered evidence **and** a showing that the Board's decision was made through or based upon fraud, collusion, deceit, or mistake of fact or law. Appellant will not be able to satisfy its burden to show that reconsideration is appropriate.

[Remainder of Page Intentionally Left Blank]

### II. Appellant's Second Section – Alleged Newly Discovered Evidence

Appellant points to one document as newly discovered – the disciplinary notice for employee Enlio Freyle (Attached to Appellant's Motion for Reconsideration as Exhibit B). The argument fails for a variety of reasons. First, Appellant did not request the disciplinary file of Enlio Freyle from the Property Appraiser's Office until August 5, 2024. See "Exhibit 1". The request to the Property Appraiser did not even occur until *after* the UPB Hearing. The Property Appraiser's Office promptly replied on August 13, 2024. See "Exhibit 2". This shows that Appellant not only knew of the existence of the record but also that he knew how to obtain it.

Appellee concedes that Mr. Van Hofwegen requested the discipline file for Enlio Freyle on July 1, 2024, from Pinellas County Human Resources. Appellee further concedes that Exhibit B to Appellant's Motion for Reconsideration is a true and accurate reflection of the response Mr. Van Hofwegen received. However, the response indicating there was no disciplinary file is actually detrimental to Mr. Van Hofwegen's Motion for Reconsideration.

Motions for Reconsideration are based on newly discovered evidence <u>and</u> a misinterpretation of the fact/law. A Motion for Reconsideration is not a vehicle to relitigate simply because a party did not like the outcome or overlooked an argument. The Board deliberated on August 1, 2024. Part of those deliberations included whether or not Appellant had met its burden of showing that the disciplinary action taken towards the Appellant was inappropriate. On that date, Mr. Van Hofwegen was in receipt of the Human Resources response indicating there were no disciplines on file for Enlio Freyle. It is difficult to imagine a stronger argument that the Appellant could have made that termination was inappropriate if he had documentation that showed a different employee who took similar actions was not only not terminated but never even disciplined.

Importantly here, even if Mr. Van Hofwegen was in receipt of the Disciplinary Notice received by Mr. Freyle, it supports Mr. Twitty's testimony before the Board regarding how he reached the difficult decision to terminate Mr. Van Hofwegen. Mr. Freyle's Disciplinary Notice (Appellee's Exhibit B) is replete with reference to what happened at the Pre-Disciplinary Hearing. The narrative in the disciplinary notice clearly shows that Mr. Freyle took accountability and understood the ethical issues that his actions posed. In addition, there was no intent on Mr. Freyle's part to achieve any personal gain by his actions. On August 1, 2024, the Board received testimony from Mr. Twitty as to his approach and mindset going into Mr. Van Hofwegen's Pre-Disciplinary Hearing. The Board also received testimony that Mr. Twitty's decision to terminate Mr. Van Hofwegen was motivated by the lack of remorse and understanding of the ethical issues demonstrated by Mr. Van Hofwegen. Notably, Mr. Freyle and Mr. Van Hofwegen had the same EAC representative at their respective Pre-Disciplinary Hearings. In fact, Appellant himself called the EAC representative at the Appeal of Termination Hearing on August 1, 2024. Appellant's own witness (and own EAC representative) testified consistently with Appellee's recollection and impression of Mr. Van Hofwegen's lack of remorse and lack of understanding at his Pre-Disciplinary Hearing. The stark distinction between the employees actions during the Pre-Disciplinary Hearing goes against Mr. Van Hofwegen's argument that the Board erred in finding that discipline was appropriate.

Mr. Van Hofwegen failed to meet his burden to show that discipline was inappropriate at the hearing and fails to meet his burden in this motion for reconsideration.

# III. Appellant's Third Section – Alleged Misapprehension of Florida Statutes and/or the Pinellas County Statement of Ethics.

Appellant goes in depth regarding Florida Statute 112.313(8) and case law interpreting that statute or statutes/ codes which Appellant appears to consider analogous. The Board does not

need to contemplate the potential strength and/or weaknesses of Appellant's argument because it is irrelevant to the instant case. Appellant was not terminated for a violation of state law. Appellant was terminated for violating Pinellas County Personnel Rules, Pinellas County Statement of Ethics, and the Pinellas County Property Appraiser Manual. Further, in reviewing the transcript, Appellant's argument was centered around the mechanisms for determining "percent good". Appellant spent a significant portion of time during argument, cross examination, and its case in chief arguing about how properties are valued. Not only is state law not the basis for termination but Appellant again fails to carry the burden for a motion for reconsideration by showing that the Board misunderstood applicable law. The argument that the discipline was inappropriate or uncalled for because it did not violate State law was not argued before the Board. Even further, Appellant does not argue that there is any newly discovered evidence that played a part in the alleged misunderstanding of state law. Therefore, Appellant does not meet the burden for reconsideration.

In this section, Appellant also argues that the Mr. Van Hofwegen's actions did not violate the Pinellas County Statement of Ethics. Again, this is Appellant attempting to relitigate decisions already made by this Board because he is unsatisfied with the results. The Board had debate and discussion at the conclusion of the presentation of both cases and specifically voted on the issue of whether his actions violated the Pinellas County Statement of Ethics. Appellant presents no newly discovered evidence and again attempts to make arguments that were not presented to the Board. Appellant fails to meet the burden required by the Appellate Procedure.

### IV. Appellant's Fourth Section – Alleged Mitigating Factors

The Board need not consider this section. The plain language of the rules governing Motion for Reconsideration never provide for mitigating factors as a permissible basis for

reconsideration. Again, this is Appellant attempting to relitigate facts without meeting the

burden for reconsideration.

WHEREFORE, the Appellee requests that the Unified Personnel Board denies

Appellant's Motion for Reconsideration.

**CERTIFICATE OF SERVICE** 

I HEREBY CERTIFY that the foregoing document has been furnished in accordance

via electronic delivery to Jennifer Moore, Esquire, Attorney for the Unified Personnel Board, at

jennifer.moore@ogletree.com and Craig Berman, Attorney for the Appellant, at

craig@bermanlawpa.com on this the 30<sup>TH</sup> day of August, 2024.

/s/ Kirby Z. Kreider

KIRBY Z. KREIDER

FBN 125856

**Assistant County Attorney** 

Pinellas County Attorney's Office

315 Court Street, Sixth Floor

Clearwater, FL 33756

Phone: (727) 464-3354 / Fax: (727) 464-4147

Primary e-mail address: kkreider@pinellas.gov

Secondary e-mail address: eservice@pinellas.gov Attorney for PINELLAS COUNTY PROPERTY

APPRAISER

CC: Mike Twitty, Pinellas County Property Appraiser

5

From: mvanhof1968@gmail.com <mvanhof1968@gmail.com>

**Sent:** Monday, August 5, 2024 3:36 PM **To:** Luca, Alexander <a href="mailto:aluca@pcpao.gov">aluca@pcpao.gov</a>>

Cc: 'Logan, Jennifer' < jennifer@bermanlawpa.com>

**Subject:** Public Records Request

### This Message Is From an External Sender

Report Suspicious

This message came from outside your organization.

Hi Alex,

This is a public records request for the following documents:

- "Footprints" for the following homes:
  - 1. 3392 Dryer Ave Largo FL 33770
  - 2. 5046 38<sup>th</sup> Street S St. Petersburg, 33711
  - 3. 6172 26<sup>th</sup> Ave St. Petersburg, FL 33710
- Data Collection Manual and PAO personnel handbook: I was provided the versions that was updated as of March 2024. I am formally requesting the version prior to that and what changes were made.
- Discipline Documents for the following individuals:
  - -Enlio Freyle
  - -Jennifer Craig
  - -Polly Myers

Electronic format is preferred.

Regards,

Mike V.

From: Luca, Alexander <aluca@pcpao.gov> Sent: Tuesday, August 13, 2024 4:48 PM

To: 'Mike' <mvanhof1968@gmail.com>; Jennifer Logan <jennifer@bermanlawpa.com>

Subject: RE: Public records request

Good afternoon,

Please see the records responsive to your request. Please note, one email with 3 attachments was redacted from this records request because it contained an exemptions application and supporting documents which are confidential and not subject to public records.

Please follow this link to the drop box containing the .pst file for the emails requested as it is too large to send as an attachment: <u>ALuca 2 - Google Drive</u>. The link also contains copies of the attached files.

### Sincerely,



### **Alexander Luca**

### **Director of Exemptions and Legal Counsel**

Representing Mike Twitty, MAI, CFA | Pinellas County Property Appraiser

Main Office | County Courthouse

315 Court St - 2<sup>nd</sup> Floor | Clearwater, FL 33756

Mail: PO Box 1957 | Clearwater, FL 33757-1957

Office: (727) 453-3338 | Fax: (727) 464-3448

aluca@pcpao.gov | www.pcpao.gov

### **We Value Your Opinion, Appraise Us!**

Email sent to/from Pinellas County Government is subject to the Public Records provision of the Florida Statutes, and may be released as part of a public records request.