

OUR MAYOR, THE LOBBYIST



Broward Mayor Ilene Lieberman is an ethics specialist whose dealings are questionable

By BOB NORMAN

Broward County Mayor Ilene Lieberman should know ethics. As a lawyer, she specializes in defending politicians against ethics complaints. And her law partner, Stuart Michelson, is likely the most prolific defender of accused pols in the county.

The pair met back in the early 1990s, when Lieberman, then mayor of Lauderdale Hill, was grappling with several complaints about her own integrity. Michelson defended her, and not only did they win every case, but the city then intimidated the accusers by suing for attorney's fees.

Even as civic vigilance chilled, the relationship between the politician and her attorney heated up. A romance formed and the litigious lovers were engaged in 1996, the same year Lieberman was elected to the county commission. Ever since, she has used her married moniker, Ilene Michelson, in her work as a lobbyist and lawyer. But in the public arena — like when she recently, and ably, led the government's response to Hurricane Frances — she uses her former name.

With a marriage forged in ethics cases, it might seem Lieberman/Michelson wouldn't flirt with impropriety. But she's been treading in extremely murky legal territory nonetheless. For the past two years, Lieberman has been moonlighting as a lobbyist for Pinnacle Housing Group, a Miami-Dade-based affordable housing developer.

The company, with the help of Lieberman, who began her one-year term as mayor this past November, has become one of Broward's top providers of low-income homes. It has lined up five taxpayer-backed projects worth a total of more than \$120 million. Since the mayor began representing Pinnacle in late 2002, the commission has approved tax-exempt bond financing, hundreds of thousands of dollars in county-controlled grants, and fee waivers for the firm.

If the mayor's work for the firm seems an obvious conflict of interest, that's because it undoubtedly is. Lieberman abstained from voting on 15 Pinnacle-related matters during a recent 14-month period. The mayor, who collects an \$84,000 **continued on page 18**



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salary from the county, won't say how much the company paid her during that time. "I have avoided any impropriety in respect to Pinnacle, and I have stayed out of any county vote regarding them," she says. "I have not lobbied any county agency or county employee on behalf of Pinnacle, nor has anyone else in my law office. I have avoided any of that, and there is nothing in the state's laws that says you are unable to work [outside the commission]."

True, no evidence has surfaced that Lieberman has used her position to pull strings for the firm at county hall, which would constitute a felony under Florida law. But the 57-year-old mayor has used her considerable clout to lobby Broward cities and the school board — which rely on the county for funding and various approvals — on Pinnacle's behalf. It's what County Commissioner Ben Graber, widely considered to be a meticulously ethical public official, calls the "gray zone."



Lieberman, in full mayoral mode, leads the county during Hurricane Frances.

Finance Authority (HFA), Wohl and Wolfson both have personal net worths of nearly \$10 million and live in \$1 million and \$3 million homes, respectively.

After constructing a handful of apartment complexes in Miami-Dade, Pinnacle began branching out to other areas in the state. In 2000, its push into Broward County began — and it didn't come without controversy. Off the bat, Wohl was implicated in campaign finance controversy when he wrote two \$500 campaign checks to then-county commissioner Norman Abramowitz. Wohl was one of nine contributors who gave Abramowitz more than the state limit of \$500. The state elections commission fined Abramowitz for the violation.

(That case didn't stop Pinnacle and its various partners from contributing tens of thousands of dollars to politicians — including about \$5,000 to Lieberman's recent campaign).

TO BE SURE, LIEBERMAN'S LOBBYING OF CITIES ON PINNACLE'S BEHALF CREATES AN ETHICAL MINEFIELD.

"I don't like it," Graber says, speaking generally of elected officials doubling as lobbyists. "Even if there is no direct conflict, there is an indirect conflict, or the perception of a conflict which makes us suspect to the public. People view that as business as usual, and it hurts their trust in government."

At the least, the mayor, who also refuses to discuss the details of her work for Pinnacle, may have violated the state Code of Ethics, which forbids elected officials from taking any job that causes them a "continuing and frequently occurring" conflict. But Lieberman, in full Michelson fashion, claims that such a conflict must involve at least 40 abstentions in an 18-month period and cites 22-year-old case law to back up the assertion. While such a defense may seem legalistic and arbitrary, it's also wrong, according to Bonnie Williams, executive director of the Florida Ethics Commission. "There is no set number," Williams says. "It must be done on a case-by-case basis."

State ethics laws, which are administrative in nature and carry punishments ranging from fines to removal from office, also preclude politicians from working for companies that are regulated by their governmental body — another area where Lieberman's employment seems to cross the line, since the county is charged with auditing and inspecting some Pinnacle developments. Here again, the mayor cites numerous legal technicalities in her defense.

But Lieberman apparently has some doubts about her employment with Pinnacle: Last week, soon after *New Times* be-

gan questioning her extensively about her employment, she said she had quit the company. She claimed that she resigned to spend more time on her mayoral duties.

Whatever her reason, it's always risky for a politician to work for a developer. A *New Times* investigation of a project in Pompano Beach called Pinnacle Village, which Lieberman worked on, found that the company submitted contradictory information to authorities in what appears to have been an attempt to abuse the system of government subsidy for affordable housing. A look at the \$19 million project, which recently broke ground in northwest Pompano, also reveals the underside of the mayor's lobbying work, which comes complete with questionable political motives and an unsavory connection to a scandal-ridden former Pompano mayor.

The story begins with Pinnacle president Michael Wohl, a disgraced lawyer who has had more than his share of ethical problems in the past.

The Politics of Profit

Wohl is a fireplug of a man, short and balding, with a reputation for bulldogging deals. The silver-tongued, 54-year-old New York-born businessman has built a sizable fortune in real estate and law. But when he was nearing his 40th birthday, Wohl was almost buried under an avalanche of legal misdeeds.

In 1987, he was accused of altering a deed to take property from a client, according to Florida Supreme Court records.

As that case proceeded, the Bar further alleged that Wohl provided false testimony and fabricated letters in an attempt to clear his name. Then, in 1989, Wohl was hit with another Bar complaint, this time from a client who accused him of forgery and misappropriation of funds.

Rather than fight the mounting allegations, Wohl resigned from the Bar in October 1989. In response to *New Times* questions, Pinnacle vice president David Deutch wrote: "Mr. Wohl was never convicted of any crime. Mr. Wohl continues to do business with the utmost integrity and veracity, and this continues to be his reputation and the reputation of Pinnacle." Lieberman says she didn't know about the prior legal problems of Wohl, who was her direct boss at Pinnacle.

The end of his legal career barely slowed Wohl down. He quickly founded a property management company in Miami. By the mid-1990s, he was partnering on various ventures with Louis Wolfson III, the heir to a Miami theater fortune and member of one of that city's most philanthropic families. In 1998, the two men created Pinnacle, with Wohl playing the role of frontman and dealmaker while Wolfson remained largely behind-the-scenes.

While building housing for the financially disadvantaged — one of the Broward County Commission's top priorities, as property values are pricing out working-class families — the two men have apparently done very well for themselves. According to financial statements submitted last year to the Broward County Housing

Pinnacle's first development venture, in Plantation, to be called Pinnacle Lakes, also ended in a mess. The complex was deeply opposed by residents and after the originally enthusiastic commission voted against it in 2001, Pinnacle sued the city. The lawsuit was later dismissed.

In 2002, Pinnacle gave it a go in Pompano, but this time Wohl had then-Vice Mayor Lieberman on the payroll. The city was accepting proposals from developers to rebuild a housing project at Holiday Lakes, an apartment complex on Powerline Road that had achieved national notoriety as a slum during the 1990s. In 2002, the Department of Housing and Urban Development handed the property over to the city, which planned to tear down the buildings and construct a brand new affordable complex. To help get the project rolling, HUD offered a five million dollar up-front grant, and the city chipped in an additional \$500,000. As another incentive, the city offered to give the land, about ten acres, to the developer for free.

Companies flocked to the project, designed mostly for residents who made less than 60 percent of the county's median household income — \$60,000 in 2002. After nine developers submitted proposals, a committee made up primarily of Pompano city officials short-listed the top six on October 29, 2002. Ranked first was Pinnacle Housing Group, which put in a plan to build 148 units in several two and three-story buildings. That December, the city commission voted, without discussion or public input, to approve the Pinnacle deal. **continued on page 20**

Milton Jones, a long-time Fort Lauderdale developer whose project was ranked second, says he felt shut out of the process. He insists his proposal was better than Pinnacle's, especially since he had secured private financing and wouldn't tap many public resources. Pinnacle, in contrast, was depending upon government money that hadn't been approved and had a price tag of about \$17.5 million, four million dollars more than Jones' estimate.

Dilip Barot, whose West Palm Beach-based company, Creative Choice Homes, was ranked third, is also adamant that his proposal was much stronger than Pinnacle's. But Barot says he wasn't surprised by the city's decision. He says political insiders — whom he wouldn't name — indicated to him that Pinnacle would win the project because it had Lieberman on its team. Barot hired high-powered Pompano lobbyist Tom Johnston to represent his company to no avail. "They had a better political connection than we did — the county commissioner [Lieberman] they hired played an important role," says Barot, who speaks with a heavy accent acquired in his native India. "The deal was already made before we even became involved."

Lieberman's real effect on the process isn't known, but Pompano is certainly a city where she has long had political power. In 2002, she was especially close to then-mayor Bill Griffin, a politician continually dogged by conflict of interest claims. Lieberman's relationship with Griffin, in fact, was founded in an ethics complaint; she and her husband Stuart defended Griffin before the ethics commission in a 1998 case. Their de-



Commissioner Ben Graber wants to tighten up on the ethical morass in Florida he calls the "gray zone."

fense was successful, as was the countersuit to obtain legal fees from Ed Stanton, a political activist who filed the complaint.

Though he has no proof, Barot claims Lieberman and city officials were involved in a questionable political swap: In exchange for the city choosing Pinnacle, Lieberman would use her power as a member of the county commission to help approve Griffin's pet project, the International Swimming Hall of Fame, to be developed by controversial entrepreneur Michael Swerdlow. The project included two skyscraping beach condos on a public beach. Support among the populace was low, and Griffin's name was further sullied when

New Times revealed that Swerdlow helped him get a job with a construction company vying for the contract. The county commission ultimately needed to approve the plan, making Lieberman's vote crucial.

Lieberman adamantly denies she made any political deals to help Pinnacle. "I was an outspoken critic of the Swimming Hall of Fame — outspoken," Lieberman says. "I was on the Broward County Planning Council at the time and voted against [the project]. I disagreed vehemently with Bill [Griffin] on the Swimming Hall of Fame and told him I would not support it."

After questioning, she admitted she may have been mistaken about the vote

and, in fact, she was. The planning council rejected the city's request to fast-track the project in March 2003, when the commissioner was no longer a member.

Lieberman did, however, strongly support Griffin's reelection effort in early 2003. She and her husband contributed \$1,000 to his campaign, while Pinnacle gave another \$500. The swim hall was the number-one issue in the race, but Lieberman says her support of the Pompano mayor had nothing to do with the project or Pinnacle. "Just because somebody votes for George W. Bush, does that mean they have to agree with the Iraq war?" she asks rhetorically. "I told [Griffin] that he was dead wrong on Swerdlow. There is no truth that I, in any way, shape or form, committed to support the Swimming Hall of Fame or agreed to remain neutral."

Since Griffin (who couldn't be reached for comment) is a Republican, Lieberman's fellow Democrats were both puzzled and angered by her cheerleading for the GOP mayor. The North Broward Democratic Club even passed a resolution condemning Lieberman for it. In the end, she was never put to the test regarding the swim hall. Griffin was ousted by voters, and the development was promptly killed by the new commission.

A.L. Stein, former head of the city's housing authority and long-time city appointee, says some developers complained to him that they felt the mayor's work for the company was improper. "I hear a lot of rumors, and I don't listen to them. I heard people say, 'Well, it looks like [Pinnacle] is in like Flynn,'" the 82-year-old chairman of the Pompano Zoning Board says in his southern drawl.

Stein says he twice saw Lieberman at City Hall on Pinnacle's behalf, once for a zoning matter and another time for a plat change. "I talked to her when she came to the board," he says. "She came up, hugged me, kissed me on each cheek, and I kissed her on each cheek. We're good friends."

Though he approved both changes, Stein isn't a fan of the deal. He says Pinnacle's price tag for the project, which has risen to \$18.9 million, is too high. "But hey, it's public money that will pay for it, so who cares?" he quips.

And he says he believes Pinnacle owes its success in Pompano to Lieberman's involvement.

"I'm not critical of the county commissioner," Stein says, "but the county needed to sign off on the [Pinnacle] plan, and who at the county do you think is going to oppose it when their employee is Lieberman? Pinnacle was damn clever."

Commissioner Graber says that politicians who lobby often never have to utter so much as a word. "A former legislator who was a lobbyist — and I'm not going to mention any names — told me that you don't have to do much when you represent a client," recounts Graber, a physician who previously served in the legislature. "All you have to do is show up at meetings and sit there and stare. Your presence in the audience alone conveys a message. There are other ways to speak other than just language, and that is utilized a great deal."

Another developer who bid for the Holiday Lakes project and asked for anonymity, said Lieberman's work was done behind the scenes. "Pompano officials knew that if they alienated Ilene Lieberman, they would lose any hope of support at the county for the Swerdlow project," says the developer. "And that's why I think county commissioners shouldn't be allowed to lobby cities. If I'm a county commissioner, and you are looking to me to get money, what are you going to do when I ask you for a favor for a client?"

Lieberman insists that Pinnacle won the Pompano project because it had the best proposal, which included a community center and a promise to buy adjacent land for the project. But when asked to explain exactly what she did to help Pinnacle, she refers questions to Wohl, who, in turn, refuses to discuss the mayor's work, citing attorney-client confidentiality. "But I'll be happy to talk about our fabulous developments," he said before refusing to do so.

Occasionally, Lieberman surfaces publicly on the company's behalf, as she did this past December before the Broward County School Board. Calling herself Ilene Michelson, she tried to convince the board to let Pinnacle build a high-rise development rather than a park on the site of the historic South Side School in Fort Lauderdale. The school board instead approved the original park plan.

It was a rare setback for Pinnacle's Broward campaign. In addition to the Pompano project, the company has recently won the right to develop two projects in Hollywood, one in Pembroke Park, and another in Pembroke Pines. Combined, all of them are worth \$20 million or more.

To be sure, Lieberman's lobbying of cities on Pinnacle's behalf creates an ethical minefield. But the way the company obtained the Pompano project is only the first part of the story. With a deal inked, the firm again began hitting up the public coffers — and its methods have proven less than pristine.

Art of the Deal

Let's say you want to build an affordable housing project for about \$19 million. How do you do it? First, you obtain the land and about five million dollars in up-front HUD money scot-free. Then you get \$6.7 million more in financing from selling federal tax credits given to you by the state.

Then pick up \$9.2 million more in low-interest, county-backed tax-exempt bonds. And, on top of that, you apply for two million dollars in special state financing that you can pay back at the sweetly low interest rate of about three percent.

Add it together and you've got \$22.9 million. The extra money you use either to pay down your low-interest debt or, perhaps, pocket some tax credits. That's all very nice, but the developer's fee is even better. When you build the place, you collect a cool three million dollars from the funding pot. And, on top of it all, you own the development, collect rents, and will likely get more public financing and another fat fee when you renovate down the road.

That's not a developer's wild fantasy, it's what Pinnacle has been planning as it builds its Pompano project. "It's a bad deal for the public because there is too much public financing going into it," says developer Jones. "How much money do you need? It's [Pinnacle's] own greediness, and the public has to pay for that greediness. With the HUD grant and the free land, the project cash-flowed very well with conventional financing."

Funding of affordable housing projects is almost absurdly complicated, and the veil of complexity often serves to shield such deals from public scrutiny.

In the case of Pinnacle Village, the figures given on various applications differ so widely that the discrepancies are relatively easy to spot.

Some of the most common incentives paid to affordable housing developers are the federal tax credits, which are allotted by the public Florida Housing Finance Corporation (FHFC). Developers who qualify are given dollar-for-dollar credits, which they sell to investors for cash. Pinnacle expects to receive about \$6.7 million for the Pompano project. It also applied for eight million dollars in low-interest, tax-exempt bond financing from the county-controlled Broward Housing Finance Authority (HFA). The sum was approved by the county commission on October 28, 2003. (Lieberman dutifully abstained from the vote).

At that point, total funding amounted to about \$19.9 million, or nearly one million dollars more than the development was expected to cost. Yet, in March of this year, the company pulled still more public funding strings. First, in early March, it claimed that construction costs were rising (which they were) and asked the county HFA for \$1.2 million in additional bond money. Interestingly, among the additional costs was a jump in projected legal fees from \$55,000 to \$291,853. (Lieberman denies she will receive any of that whopping increase).

A public hearing regarding the additional bond request was advertised in the *Sun-Sentinel* on March 30, 2004. The very next day, the company submitted an application to the state for two million dollars more in financing in a low interest SAIL loan. Those applica-

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tions are signed by the developer — in this case Wohl — who, under penalty of perjury, promises that the budget is accurate and that the entire application is “true, complete, and correct.”

But Pinnacle, clearly, was playing fast and loose with the numbers in the document:

- The company listed the total development cost at \$16.6 million in the SAIL application, which is about two million dollars lower than every other financial schedule that Pinnacle has submitted regarding the project. At the same time, the firm was complaining to the county about increasing construction costs.

- Pinnacle also radically altered the amount of money it would receive from the tax credits. In a 2003 application to



Ethical Excuses

By recusing herself from Pinnacle-related matters while on the dais, Lieberman has meticulously avoided illegal voting conflicts. And she cites her self-styled 40-abstention rule to exonerate herself from having frequently occurring conflicts. But that is news to Williams, the ethics commission’s executive director. And it evokes a laugh from Eric Rad, the treasurer for the government watchdog group Common Cause. “Where did she come up with that one?” says Rad, who lives in Plantation. “It seems like to me that one [abstention] is enough. It certainly doesn’t seem right.”

The mayor also insists that Pinnacle, though some of its projects may be audited and inspected by Broward County, isn’t technically “regulated” by her gov-

There remain serious questions about Lieberman's employment with Pinnacle.

the state, the figure was set at \$6.7 million. In the 2004 SAIL application, Pinnacle listed the amount at \$3.9 million, a \$2.8 million drop. So where were those missing tax credits going? To Pinnacle. In effect, the firm failed to mention millions in financing, while asking for \$2 million more in government handouts.

- The timing of the SAIL application is also highly suspicious. Pinnacle didn’t list the extra \$1.2 million in additional bond money it was about to receive from the county. This was crucial, since the state determines who gets SAIL money according to need and how much bond money they are already getting. The state places applicants in an “A” category, which almost assures they will be awarded the money, or a “B” category, where their chances are greatly diminished. According to the state formula, Pinnacle Village qualified as an A because the additional bond money wasn’t included. Had it been listed, Pinnacle Village would have been relegated to the B list, jeopardizing the funds. Since then, HFA has notified the state of the additional financing, but the company’s A ranking hasn’t changed. “Our rules don’t say anything about bonds coming in after the fact, but maybe there should be something in there about it,” says state regulator Chris Buswell, the FHFC’s credit administrator. “Maybe there is a hole that needs to be plugged there.”

After reviewing the numbers, Barot, the rival developer, concludes: “This is unethical, in my opinion,” he says. “Two different sets of numbers are submitted at about the same time, and they totally change.”

When asked about the applications, Wohl declined to comment. “These are very sophisticated financing schemes,” he said. “I’m not going to answer ... I don’t want to talk about numbers.”

But Pinnacle vice president David Deutch, the company’s numbers guru, denied that his company deceived the state in the SAIL application, adding that his firm “would never trick, mislead, or do anything disingenuous.” He says the \$16.6 million development cost didn’t include estimated construction increases because the contract hadn’t been completed. And he contends the company only applied for the SAIL loan to provide “gap financing” should some part of the deal fall through.

Deutch acknowledges that the company, at one time, was holding back tax credits from the deal, but he points out that it has since decided to sell all of them and put the proceeds toward the project. According to numerous experts and state regulators, the idea of a developer keeping tax credits is highly unusual, especially since the Internal Revenue Service dictates that developers are only allowed to receive as many credits as are “necessary” to make the project feasible. Keeping credits, after all, would seem to enrich the developer rather than the development.

The Pinnacle vice president points out that the state hasn’t yet allocated the SAIL money or the tax credits, and, even if his company had put false information in any state application, regulators would discover it. “If we were to put something ridiculous in an application, like it’s only going to cost \$20, the state has an underwriting process to ensure we don’t get anything we don’t need,” Deutch says.

Any company found to have misled the Florida HFC, however, is subject not only to perjury laws, but also to being barred from receiving state money for two years. “We ensure that a deal doesn’t get more public resources than it absolutely needs,” says FHFC deputy director Steve Auger. “Our process is set up to make sure that developers do not get more money than is needed to do the deal.”

Lieberman says she knew nothing about the two million dollar SAIL loan application, the apparent overfunding of the project with public money, the tax credits, or the contradictory information provided to the state and county. “I have not seen these documents, and I have no knowledge of them,” the mayor said.

While a politician always takes risks in taking a paycheck from a developer, her explanation seems reasonable, since her work for the company is centered on helping it develop new business rather than formulating deals. But there remain serious questions about Lieberman’s employment with Pinnacle.

ernmental agency. In full Michelson mode, she argues that the Pinnacle Housing Group, which hired her, is distinct, in the eyes of the law, from the limited partnerships it forms to operate each of its projects, even though they are run by the same people and involve projects for which she lobbied. “If you look at case law and see where they’ve defined ‘regulate,’ [Pinnacle] doesn’t fall under that category,” she says. “Pinnacle builds throughout the State of Florida. It has its occupational license in Miami-Dade.”

Such legal technicalities are argued ad infinitum at the ethics commission, which, it is true, often sides with politicians. And Graber says there are few who know the law as well as Lieberman. “She had a lot of cases against her when she was mayor of Lauderhill, and I believe she won every one of them,” he says. “That probably made her an expert.”

Graber avers that the state legislature is to blame for allowing those who operate in the gray zone to flourish. “Legislators need to tighten the gray zone, but there are a lot of politicians who operate in it,” he says. “I want to change it, but the legislature refuses to do that. Why? Because they like it.”

And the flourishing gray zone, says Graber, is undermining trust of all levels of government — a fact that Ilene Michelson’s legal arguments can never change.

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