

The Florida Bar
Inquiry/Complaint Form

Part One:

Your name: Ron Bynum
Address: 2616 S. Peninsula Dr.
City: Daytona Beach State: FL
Phone: 386/672-7282 Zip Code: 32118

Attorney's Name: Robert G. Brown
Address: City of Daytona Beach
301 S. Ridgewood Ave.
City: Daytona Beach, State: FL.,
Phone: 385/571-8000 Zip: 32118

Part Two:

Daytona Beach City Attorney Robert G. Brown has violated section 4-8.4 Misconduct articles C) and A) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation and knowingly assisting or inducing another to do so.

On November 30th, 2005, Daytona Beach City Commissioner Richard Shiver's basement garage was flooded with 5,200 gallons of wastewater due to a failed utility lift station. (See Exhibit 1 Summary). On June 5th, 2006, the Daytona Beach City Commission voted to purchase Shiver's home and property for \$355,833.62, which was \$168,000 greater than the 'Just Value' stated by the Volusia County Property Appraiser's office and well above the price of other comparable Daytona Beach homes, sold between September 2005 and February 2006. (See Exhibit D).

The purchase price of Commissioner Shiver's home and property was based on a single April 4th, 2006 appraisal, paid for by Shiver. No other appraisals, independent or otherwise, were utilized by city officials to determine the value of Shiver's home and property. (See Exhibit C).

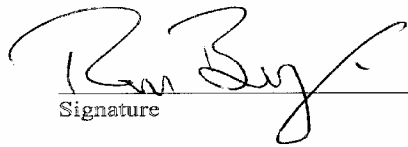
In a May 19, 2006 letter from Daytona Beach City Attorney Robert G. Brown to the City Commission, (See Exhibit A) Brown writes, "The Incident Review Committee recommends that the City purchase the property at it's pre-accident appraised value of \$328,000." Since the accident took place on November 30th 2005 and the appraisal on Commissioner Shiver's house and property was not performed until April 4th, 2006, there was no pre-accident appraisal made! The appraisal Commissioner Shiver paid for and city officials utilized, was performed six months after the accident occurred and in direct conflict with City Attorney Brown's written statement. This six month time period between the accident and property appraisal is critical as Daytona Beach property values were increasing weekly, at the highest levels of property value growth ever recorded for this city.

In his act of malfeasance, City Attorney Brown deliberately or inadvertently misrepresented the appraisal date of Shiver's house and property to the Daytona Beach City Commission, other city officials and the residents of Daytona Beach. This resulted in a \$168,000 over payment to Commissioner Shiver.

Part Three-The witnesses to my allegations include:
The Daytona Beach City Commission, The City of Daytona Beach Incident Review Board and
Daytona Beach City Manager-James Chisolm.

Part Four-
I did not attempt to use ACAP to resolve this situation.

Part Five-
Under penalty of perjury, I declare the foregoing facts are true, correct and complete.


Signature _____ Date 7/16/07



THE FLORIDA BAR

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

1200 EDGEWATER DRIVE
ORLANDO, FL 32804-6314

LAWYER REGULATION DEPARTMENT 407/425-5424
UPL DEPARTMENT 407/425-0473
WWW.FLABAR.ORG

July 20, 2007

Robert Gerald Brown
301 S Ridgewood Ave., Ste. 220
P.O. Box 2451
Daytona Beach, FL 32115-2451

RE: Complaint by Ron Bynum
Case No. 2008-30,092(07A)

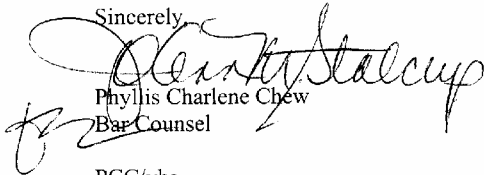
Dear Mr. Brown:

Enclosed you will find copies of correspondence received by The Florida Bar from the above-referenced complainant.

Please respond directly to this office within fifteen (15) days, with a copy to the complainant, and present your position. You are obligated to provide the complainant with a written response pursuant to R. Regulating Fla. Bar 4-8.4(g), and you are required to disclose to the partners and shareholders of your firm the existence and nature of this inquiry. Please fill out and return the enclosed disclosure form, using the above case number on all correspondence to this office.

By copy of this letter, the complainant is advised that the bar's inquiry will address possible violations of The Rules Regulating The Florida Bar only, and will not directly address any particular legal problem. Upon receipt of your response, complainant has ten (10) days to submit to this office any response or additional information complainant wishes the bar to consider.

Sincerely,



Phyllis Charlene Chew
Bar Counsel

PCC/vbs

Enclosure

cc: Ron Bynum
2616 S. Peninsula Drive
Daytona Beach, FL 32118

*MARIE HARTMAN
DEPUTY CITY ATTORNEY

ANTHONY E. JACKSON
ASSISTANT CITY ATTORNEY

BENJAMIN S. GROSS
ASSISTANT CITY ATTORNEY

CARRIE LATHAN
ASSISTANT CITY ATTORNEY

*Board certified in City, County
and Local Government Law

OFFICE OF THE
CITY ATTORNEY
THE CITY OF DAYTONA BEACH

ROBERT G. BROWN
CITY ATTORNEY

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DAYTONA BEACH, FLORIDA 32115-2451

TELEPHONE (386) 671-8040

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EXPRESS DELIVERY:
SUITE 220, CITY HALL
301 SOUTH RIDGEWOOD AVENUE
DAYTONA BEACH, FLORIDA 32114

August 2, 2007

The Florida Bar
Attn.: Phyllis Charlene Chew, Bar Counsel
1200 Edgewater Drive
Orlando, FL 32804-6314

RE: Complaint by Ron Bynum
Case No. 2008-30,092(07A)

Dear Ms. Chew

The Complainant alleges violation of "Rule 4-8.4 – Misconduct. A Lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

My understanding of the Complaint is that Mr. Bynum believes the following statement in my May 19, 2006, memorandum to the City Commission of The City of Daytona Beach concerning settlement of a claim for damages was false:

In order to resolve the issue of loss in value, the Incident Review Committee recommends that the City purchase the property at its pre-accident appraised value of \$328,000.

Specifically, Mr. Bynum complains that the term "pre-accident appraised value" was false and misleading.

The subject of my memorandum was a proposed pre-suit settlement of a Notice of Claim for damages resulting from a sewage overflow of 5,200 gallons of raw sewage into the basement of a single-family home. The sewage overflow occurred on November 30, 2005. The property owner was represented by an attorney and claimed loss of value in the amount of \$106,200, based on an evaluation by a State Certified Residential Property Appraiser. The evaluation was performed in 2006. It assessed the value of the home prior to the sewage overflow versus its value after the sewage overflow – that is, the change in value due to the sewage overflow.

The City's Incident Review Committee (IRC), of which I am not a member, reviewed the case and all documents submitted. The IRC recommended that rather than pay the claimed loss in property value as submitted – or litigate the amount of the loss – that the City purchase the property.

My memorandum presented these facts and the IRC's recommendation to the City Commission. I did not make a recommendation regarding settlement of the claim.

I do not concur with Mr. Bynum's understanding of the term "pre-accident appraised value." He asserts that the term means an appraisal *performed* after the accident. My understanding of the term, and the context and meaning of it in my memorandum, was *the value of the home if the accident had not occurred*. In my opinion, the meaning Mr. Bynum assigns to the term is not consistent with accepted meaning and practice.

In sum, the statement concerning the appraisal in my memorandum of November 30, 2005, was not false or misleading.

If any further information is necessary, please contact me at my office.

Sincerely,



Robert G. Brown
City Attorney

Copy: Ron Bynum
2616 S. Peninsula Drive
Daytona Beach, FL 32118

August 13, 2007

Florida Bar
Attn: Phyllis Charlene Chew, Bar Counsel
1200 Edgewater Dr.,
Orlando, FL., 32804-6314

RE: Complaint Response by Ron Bynum
Case No. 2008-30,092 (07A)

Dear Ms. Chew:

I am in receipt of Daytona Beach City Attorney Robert Brown's initial response to my recently filed complaint.

As the chief legal officer of Daytona Beach city government, Attorney Brown's key responsibility is to protect taxpayers interests by minimizing loss and preventing litigation against the city, its' agencies, boards and commissions, by attempting settlement or compromise on claims involving accuracy and compliance with established standards. This would include but not be limited to all legal, and quasi-legal matters, investigations, administrative hearings, review of legal documents, review and staffing of directives, legal opinions, legal aspects of labor relations, EEO hearings, and the drafting of any ordinance or resolution.

In his April 2nd response, Brown states he wasn't a member of the Daytona Beach Incident Review Committee (IRC) and inferred he had no responsibility to verify, question or investigate their findings and recommendation to purchase Commissioner Shiver's home and property. If Brown had no oversight responsibility to verify the IRC's recommendations were based on legal, accurate, factual data, and generally accepted accounting and legal practices, there was no need for him to issue the November 30, 2005 letter to the City Commission recommending the purchase. The IRC's report could have been submitted directly to the City Commission without Brown's involvement. Brown wrote the letter because it was his responsibility to provide his legal opinion as the chief legal officer of the City of Daytona Beach.

Brown's apparent claim of a semantical misunderstanding in his November 30, 2005 letter recommending purchase of Shiver's home and property to the Daytona Beach City Commission, is weak at best. It doesn't negate the fact that Brown failed in his ultimate responsibility to perform the necessary due diligence to protect the taxpayers interest regarding this situation.

Brown claims his statement, "pre-accident appraised value" actually meant, "the value of the home prior to the sewage outflow versus after the sewage outflow-that is, the change in value due to the sewage outflow," "based on an evaluation by a State Certified Residential Property Appraiser."

The "change in value" of Shiver's home as listed by Appraiser Richard C. Allen was \$106,000. Yet, Brown's November 30th 2005 letter, supported the IRC's recommendation to purchase Shiver's home and property for \$368,000, though Shiver only requested damages, not the full purchase of his home and property.

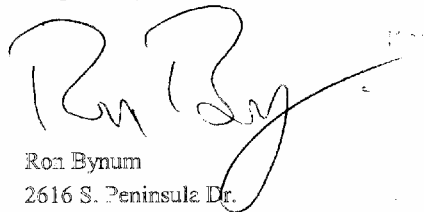
Members of the Daytona Beach Incident Review Board and City Commission should be questioned as to their understanding of Attorney Brown's written statement in his November 30, 2005 letter. Minutes of meetings from both groups should be checked for accuracy and in support Brown's claims as well.

The single appraisal (evaluation) provided by City Commissioner Shiver, (a conflict of interest) states his home and property value based on dubious information. Appraiser Richard C. Allen freely admits no other similar 'stigmatized' properties exist in Daytona Beach. The properties he provides were not based in Daytona and were 'stigmatized' by capital crimes, fire and sinkholes, not sewage. Allen provided no references, footnotes or citations from the 'studies' of the other 'stigmatized' properties cited. Allen stated the 'unimpaired' value of Shivers home prior to the accident in 2005 was \$328,000. The Volusia County Tax Appraisers Office shows the 'Just Value' of Shiver's home in 2005 to be only \$187,424, a difference of \$140,576 in Shivers favor.

City Attorney Brown accepted without question a single property appraisal conducted seven months after the accident, comprised of dubious, incomplete information and paid for by City Commissioner Richard Shiver, the injury party. Shiver's supplying of the single appraisal used to establish value of his home and property is certainly a conflict of interest. Shiver's appraisal showed a \$140,576 positive difference in value in his favor, as compared to the 'Just Value' calculated by the Volusia County Property Appraisers Office. To protect taxpayers interest, minimize their loss and avoid the appearance of any impropriety, City Attorney Brown should have insisted additional appraisals be conducted and sent the issue back to the IRC for further evaluation.

I maintain Daytona Beach City Attorney Robert Brown has deliberately or inadvertently committed misfeasance and/or malfeasance and this complaint should be investigated to the fullest degree possible, by the Florida bar.

Respectfully,



Ron Bynum
2616 S. Peninsula Dr.
Daytona Beach, FL.,
32118