

CODE ENFORCEMENT BOARD

A meeting of the Indian River County (IRC) Code Enforcement Board (the Board) was held in the Commission Chambers at the County Administration Building, 1801 27th Street, Building "A", Vero Beach, Florida on Monday, November 23, 2009 at 1:30 p.m.

Present were Chairman **Karl Zimmermann**, Realtor Appointee; **Joe Petrulak**, Subcontractor Appointee; **Cliff Suthard**, Member-at-Large Appointee; **John Owens**, Engineer Appointee; **Keith Hedin**, Businessman Appointee and **Dana Stetser**, Architect Appointee.

Absent was **Joe Garone**, General Contractor Appointee.

Also in attendance was IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Vanessa Carter Solomon, Debbie Clifford; Rose Jefferson and Kelly Zedek, Code Enforcement Officers. Others present: Attorney Suzanne Vitunac, Attorney for the Board and Reta Smith, Recording Secretary.

1:48:42 Call to Order

Chairman Zimmermann called the meeting to order and led all in the Pledge of Allegiance. The secretary called the roll, establishing that a quorum was present.

1:49:47 Approval of Minutes of October 26, 2009

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to approve the minutes of October 26, 2009 as presented.

1:49:59 Attorney's Overview of Board Purpose and Procedures

Attorney Suzanne Vitunac, Attorney for the Board, gave a brief overview of the procedures and purpose of the Code Enforcement Board.

1:54:09 Agenda Additions or Deletions, Consent Items

Mr. Roland DeBlois, IRC Environmental and Code Enforcement Chief,

mother, Suzanne Claughton Schmidt, and the two were interrelated since correspondence had been submitted involving both cases. Mr. DeBlois clarified they were similar but distinct cases and suggested they be kept separate unless the Respondent wanted to call her mother as a witness.

Mr. DeBlois explained this Evidentiary hearing had to do with residentially-zoned property being rented out for a week at a time or less than a month, and distributed copies of Section 911.04 of the County Code and other information, which is on file in the Commission Office. Mr. DeBlois outlined it was staff's position if a residence was rented for some period of time less than a month, it would fall under the category of a hotel/motel, which was not allowed in that zoning.

Ms. Betty Davis, IRC Code Enforcement Officer (2:18:07), testified she had received complaints from neighbors in the subdivision that several homes were being rented for less than 30 days. She submitted into evidence an Affidavit of Service dated November 13, 2009 and a list she had obtained from an internet rental site advertising the subject home, copies of which are on file in the Commission Office. Inspector Davis said she had checked with the IRC Clerk's Office to determine if tourist tax had been paid on rental of the property and could not find any under the Respondent's name.

The Respondent stated she had until the end of the year to pay the tax. Inspector Davis advised it was due on the first day of the month after a property had been rented and would be delinquent after the 20th day. Mr. DeBlois explained about tourist development tax, and a copy of this information is on file in the Commission Office.

Mr. DeBlois recommended the Board make a finding of violation of the cited code section and grant the Respondent a period of time to comply by ceasing such rentals.

The Respondent (2:23:50) related she was not taking issue with the fact she had rented the house for less than a month; however she was unaware it was a code violation and had been in compliance since receiving the violation notice. She noted there were approximately eight other homes in the subdivision that had also been rented out by the night and the week but for some reason she and her mother were the only ones who had been cited, which she felt was selective enforcement.

The Respondent continued she did not interpret the code in the same manner as staff because it did not address the rental issue at all. She read from a letter dated October 15, 2009 written to Code Enforcement staff by her mother and an

email from her dated October 21, 2009, copies of which are on file in the Commission Office. The Respondent stressed if the County wanted to state it was in violation to rent a residential home, it should be done across the board and everyone should be treated equally.

Inspector Davis commented she had cited other residents in the subdivision for weekly rentals; however when staff received complaints they were addressed as they came in.

The Respondent's mother, Ms. Suzanne Claughton Schmidt (2:37:25), felt the code needed to be clarified to address single-family rentals.

Lengthy discussion followed.

Mr. Suthard (2:58:15) asked Attorney Vitunac if IRC's code was clear enough to show it was obvious the Respondent was operating as a hotel or motel even though it was not listed specifically. Attorney Vitunac felt the language of the definition left a little to be desired and it sounded like the argument of the Respondents was they would like to get the code clarified, which staff seemed to agree with. She added this case had to be dealt with under the current code.

Discussion ensued.

Mr. DeBlois reiterated the use of a house for rentals of a month or less was tantamount to hotel use and was a violation of the codes. He noted the Respondent testified she was not currently renting and recommended the Board find a violation and enter an order acknowledging current compliance; however a potential fine would result if the violation recurred on the property.

Mr. Petrulak inquired if the Respondent had any upcoming rentals for the property. The Respondent said she did not as she had been waiting on the Board's decision on the case.

3:06:32

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted (5-1) to approve staff's recommendation. Chairman Zimmermann opposed.

It is noted for the record the Respondent was present for this hearing.

She noted she had not received service on the mortgage company. Mr. DeBlois recommended an extension of 30 days, until December 28, 2009, for compliance.

3:56:55

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.
3:57:07 **Case #2009070209 – Wellington Homes of Indian River**

Inspector Jefferson submitted a photograph into evidence, which is on file in the Commission Office. She confirmed the zoning use violation had been resolved and all that remained was a fence and shed built without permits, and recommended an extension of 60 days, until January 22, 2010, for compliance.

3:57:56

ON MOTION BY Mr. Owens, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

3:58:07 **Case #2009090119 – Trino Diaz**

Ms. Kelly Zedek, IRC Code Enforcement Officer, advised she had not received service on this case.

3:58:43 **Case #2009090124 – Estellar Mitchell**

Inspector Zedek submitted a photograph into evidence, which is on file in the Commission Office. Mr. DeBlois advised the violations were for junk, trash and debris and overgrown weeds and recommended an extension of 30 days, until December 28, 2009, for compliance.

3:59:42

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.

Inspector Jefferson submitted photographs into evidence, which are on file in the Commission Office, and advised this was a case of overgrown weeds. She recommended an extension of 30 days, until December 28, 2009, for compliance.

4:08:33

ON MOTION BY Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:08:51 **Case #2009100079 – Deborah Breski**

Inspector Davis submitted an Affidavit of Service dated November 13, 2009 and a photograph into evidence, which are on file in the Commission Office. She explained the case involved an accumulation of junk, trash and debris left behind when tenants moved out of the house, and Mr. DeBlois recommended an extension of 60 days, until January 22, 2010, for compliance.

4:09:14

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:09:22 **Case #2009100080 – Agnes Grover**

Inspector Davis submitted an Affidavit of Service dated November 13, 2009 and photographs into evidence, which are on file in the Commission Office, and described junk, trash and debris on the site. She recommended an extension of 60 days, until January 22, 2010, for compliance.

4:09:56

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:13:13

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:13:21 **Case #2009100099 – Port Everglades Research**

Inspector Davis advised this case was in compliance.

4:13:41 **Case #2009050187 – Bert & Geraldine Newton**

Inspector Jefferson stated she had not received service on this case.

4:13:49 **Case #2009110010 – Jose Sibilly (Bank of New York)**

Inspector Carter Solomon submitted an Affidavit of Service dated November 13, 2009 and photographs into evidence, which are on file in the Commission Office. She related this case involved an abandoned house with an accumulation of junk, trash and debris, and recommended an extension of 30 days, until December 28, 2009, for compliance.

4:15:21

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:15:30 **Case #2009090135 – Thanh & Thuyen Mai**

Inspector Carter Solomon submitted an Affidavit of Service dated November 13, 2009 and a photograph into evidence, which are on file in the Commission Office, and described overgrown weeds on the subject property. She recommended an extension of 30 days, until December 28, 2009, for compliance.

4:16:16

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to approve staff's recommendation.

he would have the new owner contact her. She said she had not been contacted and everything was the same on the site, and she could find no record of the property being sold. Mr. DeBlois recommended the fine be imposed.

4:22:01

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:22:23 **Case #2009070001 – Albertina Hicks**

Inspector Jefferson submitted a photograph into evidence, which is on file in the Commission Office, and testified the property was not in compliance. Mr. DeBlois related this had initially come to the Board in September, 2008 for overgrown weeds and recommended the fine be imposed.

4:23:03

ON MOTION BY Mr. Owens, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:23:10 **Case #2009070273 – Carlos & Magda Sandoval (U.S. Bank National Association)**

Mr. DeBlois recapped this was a Compliance hearing for dead pine trees causing a health and safety hazard. Inspector Carter Solomon submitted a photograph into evidence, which is on file in the Commission Office, and confirmed nothing had been done. Mr. DeBlois recommended the fine be imposed.

4:23:52

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to approve staff's recommendation.

It is noted for the record the Respondent was not present for this hearing.

4:24:03 **Case #2009080001 – Michael & Connie Pooley (Deutsche Bank**

