

## 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, August 27, 2012 at 1:30 p.m.

Present were Chairman **Joe Petrulak**, Subcontractor Appointee; Vice Chairman **Karl Zimmermann**, Realtor Appointee (arrived at 1:36 p.m.); **Tony Gervasio** Member-at-Large Appointee; **John Owens**, Engineer Appointee; and **Pete Clements**, General Contractor Appointee.

Absent was **Keith Hedin**, Businessman Appointee (excused).

Let the record show there is a vacancy for an Architect Appointee.

Also in attendance was IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Vanessa Carter Solomon, Rose Jefferson and Kelly Buck, Code Enforcement Officers; Attorney David Hancock, Attorney for the Board; and Terri Collins-Lister, Commissioner Assistant District 4, Recording Secretary. (Note: minutes were transcribed by Reta Smith)

### 11:20:29 Call to Order

Chairman Petrulak called the meeting to order. He announced Mr. John Owens, would be retiring from the Board as Engineer Appointee after this meeting, and on behalf of his fellow Board members and staff he thanked Mr. Owens for 20 years of dedicated service on the Board. The secretary called the roll, establishing that a quorum was present, and Chairman Petrulak led all in the Pledge of Allegiance.

### 11:22:30 Approval of Minutes of July 23, 2012

**ON MOTION BY Mr. Clements, SECONDED BY Mr. Gervasio, the Board voted unanimously (4-0) to approve the minutes of March July 23, 2012 as presented.**

11:22:48 **Attorney's Overview of Board Purpose and Procedures**

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

12:30:32 **Agenda Additions or Deletions, Consent Items**

Mr. Roland DeBlois, IRC Environmental and Code Enforcement Chief, reported the following cases had either complied, been rescheduled, or were recommended by staff for an extension of time on the Consent Agenda. Cases #2012020039, #2011120067, #2012050156, #2012040126, #2012050217, #2012040054, #2012030009, #2012050085, #2012060166, #2012040092, #2012060063, #2012010045, #2012040162, #2011110048, #2011110090, #2012010073, #2012020154 and #2012010125 - 30 day extension until September 21, 2012. Cases #2012050229, #2012040222 and #2012040173 - 60 day extension until October 19, 2012. Case #2011090199 – 90 day extension until November 23, 2012. Cases #2012060227 and #2010020039 were rescheduled.

In compliance were Cases #2012050112, #2012060106, #2012050198, #2012060178, #2012030040, #2012060174, #2012060062, #2012060148, #2012070058, #2012070059, #2012070062, #2012060220, #2012060216, #2012060228, #2012060212, #2012060146, #2012070074, #2012060160, #2012060225, #2012060238, #2012070032, #2012070033, #2012030125, #2012060165, #2012050176, #2012060186, #2011110031, #2012040005 (1<sup>st</sup> tier), #2012030058, #2012050011, #2012040172, #2012070043, #2012030113, #2012020159 and #2012060059.

Mr. DeBlois announced there was one addendum to the agenda concerning an Administrative Hearing for Case #2012080114 for an unlicensed contractor citation to be heard at a time certain of 2:30 p.m.; and an additional Lien Release Request for Case #2011020091. He recommended the Lien Release Requests be heard no sooner than 3:00 p.m.

Mr. DeBlois noted there were a number of attorneys and staff present for Case #2011080067, Michael David & Sandra Lynn Flax, and recommended the Board hear this case first.

11:40:42

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Gervasio, the Board voted unanimously (5-0) to accept the Consent Agenda with the revisions.**



Mr. DeBlois submitted into evidence a survey dated August 4, 2011 subsequently received from the abutting neighbor, Mr. Lewin, showing the private right-of-way line. He submitted into evidence a letter dated September 6, 2011 from the SIA indicating a denial of authorization to put the above-named structures in the private right-of-way. Mr. DeBlois noted staff had worked with the Respondents' attorneys to try to resolve the issues as it appeared there were encroachments at other locations within the private rights-of-way in the subdivision and the attorneys made the case this was not unique to the Respondents' property but was relatively common throughout Summerplace.

Mr. DeBlois submitted other photographs into evidence dated 2003, 2008 and 2012 that IRC staff had reviewed and found most of the encroachments depicted were landscape borders or driveway pavers that did not require a building permit. He contended today's case had to do with compliance of an issued building permit versus what the County felt was an issue between the SIA and the private landowners. He noted Lot #7 to the north of the subject of the property had a fence and similar structures in the private right-of-way; however IRC staff found the fence and structures dated back to a time in the early 1980's when fence permits were not required by the County and were grandfathered under IRC permitting requirements.

Mr. DeBlois cited and submitted into evidence a copy of Section 105.1 of the Florida Building Code requiring permits for structures, and concluded the Respondents needed to provide authorization from the landowner where the structure was located. He read into the record and submitted as County Exhibit #1 a copy of e-mail correspondence from Attorney Sandra Rennick, representing the SIA, into evidence.

Mr. DeBlois indicated the Respondents' attorney had submitted an application for an after-the-fact permit for the structures and included the e-mail from the SIA as an indication the association authorized the improvements to be located where they were. He advised staff did not accept the e-mail as authorization and this point was argued by the Respondents' attorneys as to whether or not it constituted authorization for the structures to be allowed. Mr. DeBlois submitted two photographs of the gate in question, taken on January 12, 2012, into evidence.

Mr. DeBlois pointed out the Respondents had also been cited under Chapter 312 of the IRC rights-of-way ordinance; however because this section pertained in particular to dedicated rights-of-way under the County's control he was withdrawing that citation.

Attorney Bruce Barkett, representing the Respondents, submitted into

evidence and showed on the overhead projector a survey prepared by Mr. David Jones. He pointed out a wooden fence and a pillar encroaching into the right-of-way on the road immediately north of the subject property, and inquired if Mr. DeBlois considered it would require a building permit. He maintained there were a lot of encroachments in the subdivision and wondered why the County did not enforce against all the encroachments.

Attorney Barkett questioned if there was any evidence the grandfathered structures on Lot #7 had been moved or replaced in the past 20 years, and would therefore require a building permit.

Discussion followed.

Attorney Barkett showed photographs of other encroachments he had discovered and wondered why his client was being singled out.

Attorney Sandra Rennick, representing Summerplace subdivision, testified the SIA had not sought removal of any of the encroachments pointed out by Attorney Barkett, nor had they specifically authorized any of the encroachments adding the association did not have any present plans to seek removal of said encroachments.

Mr. DeBlois asked Attorney Rennick if she was aware IRC staff would issue an after-the-fact permit to the Respondents if the SIA authorized the structure to remain in the right-of-way. Attorney Rennick responded she was aware of this; however such authorization had not been granted and she did not anticipate approval would be forthcoming by the SIA; however the SIA would not be requiring removal of the structures.

Mr. David Courage, President of the SIA, testified all the encroachments pointed out by Attorney Barkett on the survey were landscaping in nature and were not a County enforcement issue. He indicated the SIA had no intention of enforcement action against any owners; however it believed the Respondents' encroachment was an issue that should be between the County and the property owner and not involve the SIA. Mr. Courage maintained the SIA Board of Directors chose not to act contrary to its own bylaws to violate State of Florida statutes. He said he was not objecting the Respondents' structures but could not approve them because of the bylaws.

Respondent Dr. Michael Flax stated he had bought his property in 1991 or 1992 and there were wooden fence posts across the original driveway. He testified he had rebuilt the home after the 2004 hurricanes and the plans were approved by

the SIA. The Respondent stated the SIA had monitored the construction of his home and at some point during construction it became apparent the permit drawings did not accurately reflect the historic location of the driveway and he had to move the driveway back to its original location. He noted nobody told him when he moved his driveway that the gate and fencepost would be in the right-of-way and he was only made aware of this after receiving a letter from the County. The Respondent testified a column had to be moved eight inches because it was on his neighbor Mr. Lewen's property and a concrete pad for a transformer also had to be moved back; however neither Mr. Lewen nor Mr. Courage indicated they had a problem with the north column in question today.

Mr. DeBlois asked Respondent Flax how it came to be the structures in question were built in the right-of-way rather than on his property. The Respondent said his contractor told him he had been in conversations with former IRC Building Director Mr. Buddy Akins, and at the time he had no knowledge the structures were in the right-of-way.

The Respondent further testified that he had an estimate of the cost to remove and re-construct the fence, column and gate totaling \$9,760.

Attorney Barkett acknowledged a mistake was made in the location of the structures; however his client was not aware of this at the time and later applied for an after-the-fact permit to correct it. He quoted the Doctrine of Balance and Conveniences applying to encroachments, stating if the encroachment was not intentional then removal of the encroachment should not be required if it was not substantial and the removal of it would result only in a slight benefit. Attorney Barkett reiterated there were encroachments all over the subdivision and he pointed out his clients' encroachment did not impede traffic in any way and the cost would be substantial with no benefit to be gained.

Mr. DeBlois recommended the Board find there was a violation of the issued permit in that the structures were not located as permitted, and grant approximately 60 days, until October 19, 2012, for the Respondents to comply by either obtaining an after-the-fact permit for the structures to remain where they were with authorization from the SIA; relocate the structures to the location under the issued and approved permit; or remove the structures.

Mr. Clements inquired why the SIA would not make a statement in favor or against the location of the structures. Attorney Rennick responded there were other competing encroachments in the subdivision and the association had never elected to enforce the restrictive covenants against any of the encroachments. Mr.

Clements wondered why the SIA would not give its blessing in this case. Attorney Rennick stated a neighbor had complained about the existing structure and the SIA wanted to avoid a lawsuit and still be consistent.

Discussion ensued.

12:53:51

**ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Owens, the Board voted (4-1) to find the violation and grant 120 days, until December 21, 2012, for the Respondents to comply by either obtaining an after-the-fact permit for the structures to remain where they were with authorization from the SIA; relocate the structures to the location under the issued and approved permit; or remove the structures. Mr. Zimmermann opposed.**

### **LIEN RELEASE REQUESTS**

12:57:30 **Case #2011020073 – Dennis W. Moore**

Mr. DeBlois related in April 25, 2011 at an evidentiary hearing the Board found violations for illegal signage in the right-of-way, sign violation, site plan non-conformance and landscape maintenance, and granted until June 24, 2011 for the Respondent to obtain all necessary permits and inspections for illegal signs or remove them from the property, obtain approval for the displaying of merchandise in the parking lot and resolve landscape maintenance violations. He advised a number of extensions had been granted and ultimately at a compliance hearing on May 21, 2012, staff testified the sign and landscaping issues were resolved; but outdoor merchandise display was still occurring without required approval. Consequently the Board found non-compliance and entered an Order Imposing Fine of \$100 per day with a start date of May 19, 2012. Mr. DeBlois confirmed compliance had been verified as of June 21, 2012, which was 33 days for \$3,300 in accrued fines.

Ms. Kelly Buck, IRC Code Enforcement Officer, explained the Respondent had equipment on display outside of his business and there was an issue of parking calculations for his display and the necessity to add more spots for parking. She testified the Respondent had initially submitted parking calculations in August, 2011 and officially submitted his administrative approval in January, 2012, which was finally approved by IRC staff in June, 2012.



Mr. DeBlois noted the pool had an enclosure and the overgrown weeds violation had complied earlier, he noted there were no extensions granted in this case and recommended the fine be reduced to \$2,500.

13:15:17

**ON MOTION BY Mr. Clements, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to find compliance and set the fine at \$2,500.**

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

13:15:37     **Case #2012030020 – Ramon Quinones**

Mr. DeBlois recapped this initially came to the Board on April 23, 2012 for a junk, trash and debris violation involving a wood-framed wire mesh bird coop and other miscellaneous items stored on a site adjacent to the Respondent's property. He stated the Board granted the Respondent until June 22, 2012 to remove the bird coop and the other items, advising if he was to keep the pigeons on his own property after moving the coop he would need to get County approval for a non-commercial animal boarding place. Mr. DeBlois continued at a compliance hearing on June 25, 2012 staff testified compliance had not been reached and the Board imposed a fine of \$100 per day with a start date of June 23, 2012.

Mr. DeBlois confirmed compliance had been verified as of July 16, 2012, which was 23 days for a flat fine of \$2,300. He noted the Respondent had been out of the country and was responsive once he returned and realized he was being fined for the structures, and they were removed in a timely manner. Mr. DeBlois recommended the Board find compliance and rescind the fine.

The Respondent stated a member of his family had been ill and he had to leave the country; however when he came back he had resolved the violation.

13:20:13

**ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find compliance and rescind the fine.**

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

13:20:28 **Case #2012030030 – William Hicks/Diana Pasley**

Mr. DeBlois summarized this case first came to the Board on June 25, 2012 for an unenclosed and unmaintained swimming pool and tree and lawn debris on the property. The Board found the violations and entered an Order giving the Respondents until July 2, 2012 to repair the pool enclosure and until July 20, 2012 to clean the pool and removal the junk, trash and debris. He continued it came back for a compliance hearing on July 23, 2012, and finding non-compliance the Board entered a fine of \$100 per day with a start date of July 3, 2012. Mr. DeBlois related the current owners had contacted staff, who had verified compliance as of July 26, 2012, which translated to 23 days of non-compliance or a flat fine of \$2,300.

Ms. Betty Davis, IRC Code Enforcement Officer, showed on the overhead a recorded deed indicating the new owners closed on the property on July 11, 2012; however she noted the document was not recorded when this case came before the Board. She confirmed the new owners had cleaned the pool and constructed a temporary fence and were pulling a permit to rescreen the pool area. She added she had originally posted the property because it was vacant before the purchase, and the new owners had worked very hard to comply in a timely manner as soon as they bought the house.

Ms. Gabrielle Wagner, the current owner, testified she did not know there were fines on the property before the sale was closed, and once she and her husband learned of the situation they thought they would have time to resolve the issues.

Chairman Petrulak noted there was no way the new owners could have known about the lien because it would not have been recorded before the sale.

Mr. DeBlois recommended the Board find compliance and rescind the fine.

13:26:26

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Gervasio, the Board voted unanimously (5-0) to find compliance and rescind the fine.**

It is noted for the record the Respondents were present for this hearing.

13:27:00 **Case #2009070228 – Richard S. Blanton**

Mr. DeBlois recalled this case related to an Order Finding Repeat Violation

that came to the Board on January 25, 2010 for overgrown weeds, and at that time the Board found the repeat violation and gave a 30-day extension for compliance. He testified when it came back for a compliance hearing on February 22, 2010 and staff reported nothing had been done the Board entered a fine of \$100 per day with a start date of February 20, 2010. Mr. DeBlois confirmed compliance had been verified as of August 8, 2012, which was 900 days for a flat fine of \$90,000.

Mr. DeBlois noted this property was involved in a tax deed sale and as part of that process proceeds related to the lien were distributed to the County, and in this case the County had received a payment of \$1,697.16 to approximately cover the administrative costs involved. Based on that circumstance, Mr. DeBlois recommended the Board accept the payment under tax deed proceeds and set the fine amount due at \$1,697.16.

13:31:40

**ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to find compliance and set the fine amount at \$1,697.16, and accept the payment under tax deed proceeds.**

It is noted for the record the new owner, Mr. Ron Rennick, was present for this hearing.

13:31:51 **Case #2011080078 – Michael Cangialosi**

Mr. DeBlois advised this case originally came to the Board of September 26, 2011 for an overgrown weeds violation, at which time the Board granted a 30-day extension. He indicated it came back for a compliance hearing on November 28, 2012, and upon hearing compliance had not been achieved the Board entered an Order Imposing Fine in the amount of \$100 per day commencing on November 26, 2011. Mr. DeBlois confirmed the property had been mowed as of August 21, 2012, which was a passage of 269 days for a flat fine in the amount of \$26,900.

Ms. Ilene Victor, a realtor representing the owner, related the property was in the process of a short sale. She stated the Respondent told her he had to relocate to live with family and had traded a car and other personal goods with someone in exchange for maintaining the property; however this apparently had not been done. Ms. Victor noted the yard was now being mowed by another individual.

Ms. Rose Jefferson, IRC Code Enforcement Officer, showed photographs dated September 26, 2011 and testified at the time she originally posted the property

the front yard was being mowed but the back yard was extremely overgrown. She added she had never had any contact with the Respondent to discuss the problem about the rear yard not being maintained.

Mr. DeBlois recommended the fine be reduced to administrative costs of \$1,700 plus an additional \$300 for the extension, for an amount of \$2,000.

13:38:33

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Gervasio, the Board the voted unanimously (5-0) to find compliance and set the fine at \$2,000.**

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

13:38:50     **Case #2011030025 – Miguel Gonzalez & Anai Palmero**

Mr. DeBlois recapped on June 27, 2011 this case came to the Board for an evidentiary hearing for junk, trash and debris, at which time the Board found the violation and granted an extension. It came back for a compliance hearing on July 25, 2011, and when staff testified the trash had not been cleaned up the Board entered a fine of \$100 per day with a start date of July 23, 2011. He referred to a letter dated August 16, 2011 on page 416 of the backup from the attorney for the foreclosing bank, and noted at the time of the citation there was no identification or notification to a foreclosing bank. Mr. DeBlois verified compliance had been achieved as of August 3, 2012, which was 377 days for a flat fine in the amount of \$37,700.

Attorney Craig Rogers, representing the foreclosing bank, testified a Certificate of Title was issued on the property on July 24, 2012 and the bank promptly hired a property manager to bring the site into compliance. He asked the Board to rescind the fine.

Mr. DeBlois recommended the fine be reduced to administrative costs in the amount of \$1,700.

13:43:55

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find compliance and set the fine at \$1,700 to cover administrative costs.**

It is noted for the record the bank's representative was present for this hearing.

13:44:20 **Case #2011020091 – Margaret & Susan Callahan (U.S. Bank National Association)**

Mr. DeBlois related in March, 2011 the Board had entered an Order Finding Violation for a swimming pool maintenance violation and a fallen fence on the west side of property at 1776 Cypress Lane in Vero Beach. He continued an extension had been granted and when it came back for a compliance hearing on May 23, 2011 the issues were not resolved and the Board entered a fine of \$100 per day with a start date of May 21, 2011.

Inspector Carter Solomon testified the subject property was still not in compliance.

Mr. DeBlois explained he had received a request to maintain the Order against the subject property where the violation occurred; but release other property owned by the Respondents.

Ms. Margo Sudnykovich, a realtor representing the Respondent, stated there were sales pending on property owned by the Respondent; one located at 445 25<sup>th</sup> Avenue, Vero Beach, and another property at 6969 45<sup>th</sup> Street, Vero Beach, and in order to close on the aforementioned properties, she was seeking to get those liens released. Ms. Sudnykovich indicated she had a signed contract on the Cypress Lane property where the violations occurred and was waiting for bank approval, at which time the violations would be resolved and the lien would be paid.

Mr. DeBlois recommended the Board approve a partial release of lien on the properties at 445 25<sup>th</sup> Avenue and 6969 45<sup>th</sup> Street, Vero Beach, but retain the lien on the subject property at 1776 Cypress Lane, Vero Beach.

Mr. Clement felt there would be more incentive to come into compliance if the liens on the other properties were not released until the violations on the subject property had been taken care of.

Discussion followed.

13:56:12

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Gervasio, the Board voted (4-1) to approve a partial release of lien on the properties at 445 25<sup>th</sup> Avenue and 6969 45<sup>th</sup> Street, Vero Beach, but retain the lien on the subject property at 1776 Cypress Lane, Vero Beach. Mr. Clements opposed.**

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

### **EVIDENTIARY HEARINGS**

13:56:58 **Case #2012050131 – Alicia Zamarippa**

Mr. DeBlois stated this had to do with agriculturally-zoned property cited for zoning district use violation for outdoor storage of commercial citrus equipment, vehicles and a bus on property with no on-site citrus grove or activity.

Inspector Davis submitted four photographs and an aerial photo taken in 2011 into evidence and indicated she had received complaints from neighbors about a number of citrus-related vehicles located on the 10-acre site.

Mr. DeBlois recommended the Board grant approximately 60 days, until October 19, 2012, for the Respondent to remove the commercial equipment and outdoor storage from the property.

Respondent Zamarippa said she had cleared some equipment from the property and just needed time to take care of the remainder.

Mr. DeBlois said staff could support a 90-day extension until November 23, 2012 to come into compliance, otherwise a \$100 per day fine would be imposed.

14:04:06

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find the violation and grant an extension of 90 days, until November 23, 2012, for compliance or a \$100 per day fine.**

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

Chairman Petrulak called a recess at 4:15 p.m. and reconvened the meeting at 4:25 p.m.

14:04:31 **Case #2012050130 – Five Parcels-60 LLC**

Inspector Davis related this was the former Mrs. B's restaurant on State Road #60 that was now closed. She confirmed service by posting on July 3, 2012 and submitted eight photographs into evidence showing holes in the structure where the air conditioning units had been removed. Inspector Davis testified she had cited the Respondent for structure exterior maintenance, landscape maintenance and junk, trash and debris violations. She indicated the Respondent had pulled a demolition permit last month and told her the building should be removed within 30 days.

Mr. DeBlois recommended an extension of 30 days, until September 21, 2012, for the Respondent to either secure and bring the building up to code or demolish the structure, and compliance of landscape maintenance and removal of the junk, trash and debris.

14:06:18

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-) to find the violation and grant an extension of 30 days, until September 21, 2012, for compliance by either securing and bringing the building up to code or demolishing the structure, and compliance of landscape maintenance and removal of the junk, trash and debris.**

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

14:06:26 **Case #2012060030 – Geriseb P. L.**

Inspector Davis confirmed service on August 9, 2012, and submitted two photographs into evidence. She explained this case involved a site plan violation for the addition of two parking places that constituted a traffic hazard, and recommended an extension of 30 days, until September 21, 2012, for compliance.

14:07:26

**ON MOTION BY Mr. Zimmermann, SECONDED BY Gervasio, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until September 21, 2012, for compliance or a \$100 per day fine.**

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

14:07:33     **Case #2012030056 – Ellen M. Ramm**

Mr. DeBlois indicated this case was in compliance.

14:07:50     **Case #2012060184 – Michael & Virginia Kleinfelter**

Inspector Davis reported the Respondents had built a carport addition and a shed without permits, adding the junk, trash and debris and zoning district use violations had been complied. She submitted three photographs into evidence and confirmed service on August 8, 2012, and recommended an extension of 90 days, until November 23, 2012, to either obtain permits or remove the structures.

14:08:45

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Gervasio, the Board voted unanimously (5-0) to find the violation for no building permits and grant an extension of 90 days, until November 23, 2012, for compliance or a \$100 per day fine.**

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

14:09:30     **Case #2012060181 – Mello Jackson**

Inspector Buck announced she had not received service on this case.

14:09:42     **Case #2012060065 – Bank of New York Mellon, Trust Company**

Inspector Jefferson submitted two photographs into evidence and confirmed service on July 16, 2012. She described overgrown weeds on vacant property and recommended an extension of 30 days, until September 21, 2012, for compliance.

14:10:39

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until September 21, 2012, for compliance or a \$100 per day fine.**

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

14:10:56     **Case #2012030011 – Maria Martinez**

Inspector Jefferson submitted an Affidavit of Service indicating the property had been posted on August 9, 2012, and two photographs into evidence. She explained she had cited the Respondent for no building permit after receiving a complaint from the IRC Building Department about a garage converted into a bedroom with a bathroom and porch roof on the back. She submitted into evidence the Notice of Violation along with a copy of an inspection report from IRC Building Inspector Mr. Shawn Doutrich. Inspector Jefferson indicated an after-the-fact permit had been applied for on July 18, 2012, and recommended the Board grant approximately 60 days, until October 19, 2012, for the Respondent to obtain final inspections or be subject to a \$100 per day fine.

14:12:22

**ON MOTION BY Mr. Zimmermann, SECONDED BY Owens, the Board voted unanimously (5-0) to find the violation and grant an extension of 60 days, until October 19, 2012, to obtain final inspections or a \$100 per day fine.**

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

14:12:20     **Case #2012070080 – Bartolome & Barnarda Maldonado (Wells Fargo Bank)**

Inspector Davis confirmed service on August 16, 2012 on the owners and on the bank on August 13, 2012, and submitted three photographs into evidence. She stated she had received a complaint about junk, trash and debris on the subject property and recommended an extension of 30 days, until September 21, 2012, for compliance. Inspector Davis noted the junk vehicle violation had been resolved.

14:13:37

**ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to find the violation of junk, trash and debris and grant an extension of 30 days, until September 21, 2012, for compliance or a \$100 per day fine.**

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

14:13:45     **Case #2012070086 – Basil & Martha Neely**

Inspector Davis related this case came from the IRC Engineering Department for a driveway poured without a permit, and she had cited the Respondents for unpermitted construction in the right-of-way. She confirmed service on August 20, 2012, and submitted a copy of an after-the-fact permit and one photograph into evidence. Inspector Davis recommended an extension of 30 days, until September 21, 2012, for compliance.

14:14:29

**ON MOTION BY Mr. Clements, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until September 21, 2012, for compliance or a \$100 per day fine.**

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

14:14:37     **Case #2012060145 – Gwendolyn Shepard**

Inspector Jefferson submitted an Affidavit of Service indicating the property had been posted on August 9, 2012, and two photographs into evidence, and described overgrown weeds at a vacant residence. She recommended an extension of 30 days, until September 21, 2012, for compliance.

14:15:26

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find the overgrown weeds violation and grant an extension of 30 days, until September 21, 2012, for compliance or a \$100 per day fine.**

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

14:15:43     **Case #2012060256 – John & Sherry Cusano (Bank of New York Mellon)**

Inspector Jefferson submitted an Affidavit of Service indicating the property had been posted on August 9, 2012, and two photographs into evidence, and described overgrown weeds and junk, trash and debris on the subject property. She recommended an extension of 30 days, until September 21, 2012, for compliance.

14:16:53

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until September 21, 2012, for compliance or a \$100 per day fine.**

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

14:17:05     **Case #2012070024 – Martha Williams**

Inspector Jefferson related she had cited the Respondent for overgrown weeds at a vacant residence. She submitted an Affidavit of Service indicating the property had been posted on August 9, 2012, and two photographs into evidence, and recommended an extension of 30 days, until September 21, 2012, for compliance.

14:18:19

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until September 21, 2012, for compliance or a \$100 per day fine.**

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

14:18:28     **Case #2012070067 – WTH Oakmont Mortgage**

Inspector Carter Solomon confirmed certified mail service on August 13, 2012 and submitted two photographs into evidence showing overgrown weeds. She observed the property had gone through foreclosure and the property had not been



14:23:03

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find non-compliance and impose a fine of \$100 per day with a start date of August 25, 2012.**

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

14:23:17     **Case #2012060123 – Candelario Exposito**

Inspector Carter Solomon stated this case first came to the Board on July 23, 2012 for overgrown weeds, at which time the Board granted approximately 30 days until August 24, 2012 to resolve the violation. She submitted two photographs taken August 27, 2012 into evidence and since nothing had been done she recommended the fine of \$100 per day be imposed, with a start date of August 25, 2012.

14:24:14

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to find non-compliance and impose a fine of \$100 per day with a start date of August 25, 2012.**

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

14:24:23     **Case #2012060171 – U.S. Bank National Association**

Inspector Carter Solomon recalled this case initially came before the Board on July 23, 2012 regarding overgrown weeds on a vacant property, at which time an extension of 30 days was granted, until August 24, 2012. She submitted two photographs dated August 27, 2012 into evidence and noted compliance had not been attained. Inspector Carter Solomon recommended the Board impose a fine of \$100 per day with a start date of August 25, 2012.

14:24:59

**ON MOTION BY Mr. Zimmermann, SECONDED BY Gervasio, the Board voted unanimously (5-0) to find non-compliance and impose a fine of \$100 per day with a start date of August 25, 2012.**

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

14:25:17 **Case #2012060024 – Woodie Michael Brewer (LaSalle Bank)**

Inspector Carter Solomon summarized this case initially came to the Board on July 23, 2012 regarding overgrown weeds, swimming pool maintenance and pool enclosure violations. The Board granted seven days to resolve the swimming pool enclosure violation and until August 24, 2012 to comply with the two remaining violations. Inspector Carter Solomon advised Mr. DeBlois had met with an IRC Building Department official and determined because the pool was latched above four feet and was not accessible, the pool enclosure violation would be in compliance.

Inspector Carter Solomon submitted two photographs into evidence and confirmed the pool had still not been cleaned and the grass was extremely high. She recommended the Board impose a fine of \$100 per day with a start date of August 25, 2012.

14:26:41

**ON MOTION BY Mr. Zimmermann, SECONDED BY Gervasio, the Board voted unanimously (5-0) to find non-compliance for the swimming pool maintenance and overgrown weeds violations and impose a fine of \$100 per day with a start date of August 25, 2012.**

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

14:26:50 **Case #2012070025 – Wilma Martin**

Inspector Carter Solomon mentioned this case was a piggy-back from the previous Case #2012020111 involving the same property and Respondent, because when that case was initially brought before the Board the overgrown weeds violation had been brought into compliance. She continued the Respondent had subsequently let the grass grow out again and there was yard debris on the property, so she had opened a new case that came to the Board on July 23, 2012. Inspector Carter Solomon indicated the Respondent was granted an extension of 30 days, until August 24, 2012, to mow the overgrown weeds and remove the junk, trash and debris; however it was still not in compliance. She submitted two photographs into evidence and recommended the Board impose a fine of \$100 per day with a start date of August 25, 2012.

14:28:14

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find non-compliance and impose a fine of \$100 per day with a start date of August 25, 2012.**

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

14:28:21 **Case #2012060231 – Michael E. Branand II**

Inspector Carter Solomon advised this was a compliance hearing for a repeat violation for a case that had been to the Board on October 25, 2010 for swimming pool maintenance and pool enclosure violations. She noted at the time the property was going into foreclosure and the Respondent had resolved the violations; however it appeared he had moved out of the house again and the pool gate was open and the pool was accessible. Inspector Carter Solomon submitted two photographs into evidence and observed the pool had originally been drained but it was now filling up with rain water.

Inspector Carter Solomon testified she had discovered the property was once again in foreclosure and had contacted the bank about the violations, and they had put in a work order to resolve the issues. She requested the Board grant seven days, until September 3, 2012, for the pool enclosure violation to comply; and approximately 30 days, until September 21, 2012, for the swimming pool maintenance violation to be resolved.

14:29:48

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find the repeat violations and grant an extension of seven days, until September 3, 2012, for the pool enclosure violation to comply; and approximately 30 days, until September 21, 2012, for compliance of the pool maintenance violation.**

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

14:30:29 **Case #2012050132 – Jamie D. Snow**

Inspector Davis recapped this case originally came to the Board on April 24, 2012 for pool maintenance, pool enclosure and exterior maintenance violations. She

reported the pool enclosure violation had been resolved; however the pool was still dirty and the property was still open. Inspector submitted two photographs into evidence and recommended the Board impose a fine in the amount of \$100 per day with a start date of August 25, 2012.

14:31:23

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find non-compliance of the pool maintenance and exterior maintenance violations and impose a fine of \$100 per day with a start date of August 25, 2012.**

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

### **LIEN RELEASE REQUESTS**

14:31:36 **Case #2011090027 – Gifford Gardens LLC**

Mr. DeBlois related this case had been to the Board for an evidentiary hearing on October 24, 2011 for overgrown weeds and unsecured openings on a vacant structure, at which time the Board found the violations and granted until November 25, 2011 for compliance. He indicated the case came back for a compliance hearing on November 28, 2011, and upon learning the violations still existed the Board entered an Order Imposing Fine of \$100 per day with a start date of November 26, 2011. Mr. DeBlois confirmed IRC staff had verified compliance as of August 1, 2012, which was 249 days of non-compliance for a fine amount of \$24,900.

Inspector Buck testified the property had been purchased through a tax certificate sale and the new owner had cleaned up the property and brought it into compliance, and he was now asking for the fine to be reduced.

Mr. DeBlois pointed out this was a tax deed sale and the new owner had been diligent once he had taken possession, and recommended the fine be set to cover administrative costs in the amount of \$1,700.

14:36:18

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Clements, the Board voted unanimously (5-0) to find compliance and set a fine in the amount of \$1,700 to cover administrative costs.**



14:41:37

**ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to find compliance and set the fine at the flat accrued amount of \$3,300.**

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

### **ADMINISTRATIVE HEARING**

14:41:47 **Case #2012080114 – Timothy & Julie Cunningham**

Mr. DeBlois stated this related to Citation #1118 issued to Mr. Daniel Adolfo Silva Pacheco for unlicensed contracting for interior house painting without proper licensing. He advised Respondent Pacheco had an opportunity to appeal and appear before the CEB if he wanted to contest the citation; however since the Respondent was not present, he recommended the Board uphold the citation in the amount of \$500 as issued.

Mr. Clements pointed out it was unlawful for an individual to hire an unlicensed contractor, and it was the property owner's responsibility. Mr. DeBlois noted Ms. Betty Beatty-Hunter, the IRC Building Department official who issued the citation, was not present and he did not know whether or not the owner was given a warning; however the citation had been issued to the unlicensed contractor.

14:44:16

**ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to uphold Citation #1118 and the fine in the amount of \$500.**

Discussion ensued about why the home owner was not being held responsible. Mr. DeBlois promised to follow this matter up with Inspector Beatty-Hunter.

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

14:45:38 **Authorization for Notices to Appear**

**ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Owens, the Board voted unanimously (5-0) to authorize the Notices to Appear for cases leading up to the September 24, 2012 meeting.**

**Other Matters**

The Board members wished Mr. Owens well and again thanked him for his service.

**Adjournment**

There being no further business, the meeting was adjourned at 5:10 p.m.