

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, September 28, 2015 at 1:30 p.m.

Present were Chairman **Karl Zimmermann**, Realtor Appointee; **David Myers II**, Businessman Appointee, **Stephen Boehning**, Engineer Appointee; **Tony Gervasio**, Member-at-Large Appointee; **Joe Petrulak**, Subcontractor Appointee; **Pete Clements**, General Contractor Appointee.

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

Also in attendance was Attorney Jennifer Peshke, Attorney for the Board; IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Vanessa Carter Solomon, Rose Jefferson and Kelly Buck, Code Enforcement Officers; David Checchi and Betty Beatty-Hunter, IRC Contractor License Investigators; and Lisa Carlson, Recording Secretary.

8:51:40 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.

8:53:45 Approval of Minutes of

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to approve the minutes of August 24, 2015 as presented.

8:54:22 Attorney's Overview of Board Purpose and Procedures

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

9:00:00 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 #2015050045, #2013100068, #2015070097, #201560154, #2015060155, #2015070073, #2015060150, #2015060027, #2015010059, #2015070162, #2015030058 – 30 day extension until October 23, 2015. Cases #2015040126, #2015040128, #2014120101, #2015040035, #2014100124, #2015060062, #2014120129, #2014100101, #2015010086 and #2015060091 – 60 day extension until November 20, 2015. Case #2014040012 – 90 day extension until December 25, 2015. Cases #2015060088 and #2015030027 were rescheduled.

In compliance were Cases #2015050029, #2015080084, #2015070084, #2014100120, #2013120009, #2015040117, #2015060127, #2015010096, #2015010068, #2015040109, #2015060147, #2015030043, #2015040068, #2015020103 and #2015070009

Mr. DeBlois recommended that the Administrative Hearings be heard at 2:30 p.m. and that the Lien Release Requests be heard at 3:00 p.m. or later.

9:07:38

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to accept the Consent Agenda with the revisions.

9:08:40 **Swearing in of Those Who Will Testify**

The secretary proceeded to administer the testimonial oath to everyone who would be testifying at today's hearings.

EVIDENTIARY HEARINGS

9:09:35 **Case #2015060138 - Ralph E Studer**

Mr. DeBlois summarized that this case had to do with overgrown weeds and a junk vehicle. He recommended a 30 day extension, until October 23, 2015, for the Respondent to prove the vehicle to be roadworthy, move it into the driveway and mow the grass.

Ms. Rose Jefferson, IRC Code Enforcement Officer, submitted three photos into evidence and testified regarding the overgrown rear yard as well as the junk vehicle.

Respondent Mr. Ralph Studer inquired as to how to prove the vehicle

roadworthy to which Inspector Jefferson explained the process.

9:14:28

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (6-0) to find the violation and grant an extension of 30 days, until October 23, 2015, for compliance or a \$100 per day fine would be imposed.

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

9:15:38 **Case #2015080113 - Pablo Almanza and Tenant**

Inspector Ms. Betty Davis, IRC Code Enforcement Officer, submitted four photos into evidence and described general debris, a junk vehicle and citrus grove equipment on the subject property.

Mr. DeBlois recommended a 30 day extension, until October 23, 2015, to resolve the debris issue and demonstrate that the vehicle is roadworthy. He further recommended a 60 day extension, until November 20, 2015 to remove the citrus equipment from the property.

Respondent Mr. Asher Fatella, tenant at the subject property, testified that the vehicle hadn't moved recently because he had lost the key and that the reason for the excessive debris was that his truck had been inoperable.

9:20:41

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find non-compliance and grant an extension of 30 days, until October 23, 2015, for the Respondent to resolve the debris and junk vehicle violations, and 60 days, until November 20, 2015, for compliance of the citrus equipment violation, or a \$100 per day fine would be imposed.

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

9:21:05 **Case #2015080025 - Steven T. & Kristina L. Wilton**

Mr. DeBlois summarized that this case related to numerous boats, trailers and

junk vehicles stored on and adjacent to the subject property as well as an unpermitted shed and yard debris.

Inspector Jefferson submitted ten photographs into evidence and testified that this case was brought to her attention by a neighboring property owner who felt that the Respondent was running a boat repair business and complained about vehicles being parked in the right of way. The Respondent was also cited for an unpermitted shed. She stated that the debris violation has been resolved.

Ms. Gwendolyn Garner, neighboring property owner, voiced her concern about vehicles taking up half of the road while being repaired and washed and testified that this has been an ongoing issue. She was disturbed by the fact that this property has had seven similar violations since 1994 and feels that the rules are not being enforced. She believes that the Respondent is running a business at the subject property and spoke of the cycle of vehicles sitting partially in the road with engines removed that are eventually put back together and replaced with different vehicles.

Respondent Mr. Steven Wilton stated that Ms. Garner just purchased the neighboring property and that her new tenants have a boat, camper and junked vehicle on their front lawn. He felt that it was unfair that he has been cited while they have not. As for the equipment on his property shown in Inspector Jefferson's photographs, he stated that it is all operable and registered in his name and that there is no junk equipment on his property. In regards to the unpermitted shed, he claims he has purchased permits on two occasions.

Discussion followed regarding the Respondent's home business as a carpet installer and whether or not his shed is indeed permitted.

Mr. DeBlois recommended a 30 day extension, until October 23, 2015, to come into compliance on the junk vehicles and right-of-way parking issues and a 60 day extension, until November 20, 2015, to resolve any permitting issues.

9:41:12

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (6-0) to find the violation and grant an extension of 30 days, until October 23, 2015, for compliance on the junk vehicle and right-of-way parking issues, and a 60 day extension, until November 20, 2015 to resolve permitting issues or a \$100 per day fine would be

imposed.

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

COMPLIANCE HEARINGS

9:42:33 **Case #2015070137 - Mark Titone**

Mr. DeBlois related that case came before the Board on August 24, 2015, regarding overgrown grass, yard debris, an unmaintained swimming pool and unsecured pool entry. The Respondent was given until September 25, 2015 to come into compliance.

Inspector Ms. Vanessa Carter Solomon, IRC Code Enforcement Officer, submitted three photos into evidence and updated the Board as to the current status of compliance. She stated that the grass has been cut and the pool gate has been secured but the fence is leaning and she was unable to confirm the status of the swimming pool maintenance. She inquired as to the brick pavers in front of the house.

Respondent Mr. Mark Titone alleged that he had repaired the fence but that neighborhood kids kept pushing on it and he intends to completely replace it but needs time to go through the planning and engineering process with the county. He further stated that the pool has been maintained and that he can provide records from the pool maintenance company to prove it. As for the brick pavers, he'd been ill for the past week and had been unable to finish building the planned retaining wall.

Discussion ensued regarding whether a permit is needed for the retaining wall.

Mr. DeBlois recommended a seven day extension to repair the fence and 30 days, until October 23, 2015, to resolve the remaining issues.

9:48:32

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to find the violation and grant an extension of 7 days to repair the fence and 30 days, until October 23, 2015, for compliance on all remaining issues or a \$100 per day fine would be imposed.

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

10:16:15

ON MOTION BY Mr. Gervasio, SECONDED BY Mr. Petrulak, the Board voted (5-1) to uphold the citation as issued in the amount of \$500. Mr. Myers II was the opposing vote.

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

Chairman Zimmerman called a five minute recess at 2:57 p.m. and reconvened the meeting at 3:05 p.m. It was noted that Mr. Gervasio excused himself from the remainder of the meeting at this time.

EVIDENTIARY HEARING

10:19:25 **Citation #1168 – Andrew J. Lane**

Mr. DeBlois related that this case is an addendum to the agenda and that it was scheduled for the next meeting but would be heard because the Respondent was present. It related to a sidewalk being installed without a permit by an unlicensed contractor.

Investigator Beatty-Hunter testified that she observed concrete being poured for a sidewalk at the subject property and cited the unlicensed contractor who has since paid the citation. She also cited the Respondent, who is the homeowner.

Respondent Mr. Andrew Lane stated that since a permit was not required for the brick paver driveway he'd previously had installed, he didn't understand why one was needed for this project since it was not a continuous sidewalk installation but rather individual slabs of concrete with pebbles between them. He has since received an after the fact permit and it has been closed.

Discussion followed regarding the after the fact permit that costs double the normal rate as well as the definition of "sidewalk". Also debated was the differentiation between concrete that is cast onsite versus precast offsite and the possibility of defining this in the county ordinance so as to avoid future citations.

10:41:13

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to uphold only the unlicensed contractor section of Citation

#1168 in the amount of \$500.

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

LIEN RELEASE REQUESTS

10:41:37 **Case #2013100151 – Regina M. Ginn & Kent Stuckey**

Mr. DeBlois pointed out that this was one of two related cases on the agenda with the same Respondent. This first case related to debris and a junk vehicle on the subject property. It first came before the Board on February 24, 2014 when the Respondents were given 30 days to clean up the property. After an extension, it came back before the Board in April of 2014 at which time staff reported that the violation was not resolved and entered an order imposing fine beginning April 26, 2014. Compliance was confirmed as of July 20, 2015 after a passage of 450 days or a flat fine of \$45,000 plus administrative costs of \$2000. He recommended that the fine be reduced to \$4500 and that the lien for the subject property be released.

10:47:20

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to reduce the fine to \$4500 and release the lien for the subject property.

It is noted for the record that Mr. Richard Beneduce, listing agent for this foreclosed property, was present for this hearing.

10:48:25 **Case #2014030041 – Regina M. Ginn & Kent Stuckey**

Mr. DeBlois noted that this complaint related to the previous case above. Initially the case came before the Board on July 28, 2014 regarding a carport constructed without a permit. The Respondent was given until August 22, 2014 to resolve it, and after one extension, staff reported that the issue had not been resolved and entered an order imposing fine beginning September 20, 2014. Compliance was confirmed on August 26, 2015 after the structure was removed with a passage of 340 days or a flat fine of \$34,000. Mr. DeBlois recommended that the fine be reduced to \$3400 and that the lien for the subject property be released.

had a concrete floor did delay the process but that Mr. Chagani was indeed diligent in trying to come into compliance. He recommended that under the circumstances, a rescindment of the fine would be in order.

11:25:10

ON MOTION BY Mr. Clements, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to acknowledge compliance and rescind all fines.

EVIDENTIARY HEARINGS

11:25:45 **Case #2015060094 – Raymond E. & Elizabeth Macht**

Inspector Davis submitted two photos into evidence and testified that this property was posted on September 16, 2015 for debris, junk vehicles and a sign violation. The sign violation has been resolved and she requested a 60 day extension for compliance on the remaining issues.

11:27:40

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violations and grant an extension of 60 days, until November 20, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:27:59 **Case #2015070032 – Bernie T. Nash**

Inspector Jefferson submitted an Affidavit of Service indicating the subject property had been posted on September 17, 2015 along with one photo into evidence. She testified that the violation was for junk, trash and debris and requested an extension of 30 days, until October 23, 2015 for the Respondent to bring the property into compliance.

11:28:50

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until October 23, 2015, for compliance or a \$100 per day

fine would be imposed.

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

11:28:56 **Case #2015080071 – William D. Bryant & Debra Watson**

Inspector Davis submitted one photo into evidence and testified that the violation was for junk, trash and debris and requested an extension of 30 days, until October 23, 2015, for the Respondent to bring the property into compliance.

11:30:02

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until October 23, 2015, for compliance or a \$100 per day would be imposed.

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

11:30:21 **Case 2015080072 – Jose Gerardo Martinez**

Inspector Davis submitted four photos into evidence and testified that the violation was for junk, trash and debris on a vacant lot. She requested an extension of 30 days, until October 23, 2015, for the Respondent to bring the property into compliance.

11:32:38

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find the violation and grant a 30 day extension until October 23, 2015, for compliance or a \$100 per day fine will be imposed.

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

11:32:45 **Case #2015080027 – Michael Jr. & Donna Cooper**

Inspector Davis submitted one photo into evidence and testified that the violation was for debris as well as overgrown weeds. She requested an extension of 30 days, until October 23, 2015, for the Respondent to bring the property into

compliance.

11:34:41

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to find the violation and grant an extension of 30 days, until October 23, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:34:55 **Case #2015080049 – Wellington Homes of Indian River County**

Inspector Jefferson submitted an Affidavit of Service indicating the property had been posted on September 28, 2015, along with two photos into evidence. She testified that the violation was for junk, trash and debris and requested an extension of 30 days, until October 23, 2015 for the Respondent to bring the property into compliance.

11:35:51

ON MOTION BY Mr. Boehning, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until October 23, 2015, for compliance or a \$100 per day fine would be imposed.

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

11:36:04 **Case #2015080122 – Daniel J. & Coleen F. Zicari**

Inspector Jefferson related that this case had to do with junk, trash and debris as well as overgrown weeds. She stated that while this case has come into compliance, she is recommending a continuing order due to numerous complaints and code violations issued this year.

Mr. DeBlois reiterated that this is a case with an established recurrence and while the Respondent has been responsive, they tend to wait until the last minute each time and he feels that it merits the Continuing Order so that if the violation occurs, it's potentially subject to an automatic fine.

11:37:02

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to find the violation in compliance and enter a Continuing Order for compliance or a \$100 per day fine would be imposed.

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

11:37:13 **Case #2015090040 – Georgios & Melpomeni Varahidis**

Inspector Davis submitted an Affidavit of Service indicating the property had been posted on September 28, 2015. She testified that the violation was for overgrown weeds and requested an extension of 30 days, until October 23, 2015 for the Respondent to bring the property into compliance.

11:37:38

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to find the violations and grant an extension of 30 days, until October 23, 2015, for compliance or a \$100 per day fine would be imposed.

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

COMPLIANCE HEARINGS

11:38:09 **Case #2015070098 – David L. Earle**

Inspector Jefferson submitted two photographs into evidence and described the overgrown weeds violation on the subject property that originally came before the Board on August 24, 2015 and was granted a 30 day extension. No progress has been made and there has been no contact with the Respondent. She recommended that a \$100 day fine be imposed with a start date of September 26, 2015.

11:38:51

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers, the Board voted unanimously (5-0) to find the violation and impose a \$100 per day fine beginning

September 26, 2015.

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

11:39:00 **Case #2015040003 Richard W. White & Janet L. Noel**

Inspector Jefferson submitted two photographs into evidence and described the overgrown weeds violation on the subject property that originally came before the board on August 24, 2015 and was granted a 30 day extension. No progress has been made and there has been no contact with the Respondent. She recommended that a \$100 day fine be imposed with a start date of September 26, 2015.

11:39:54

ON MOTION BY Mr. Myers II, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to find the violation and impose a \$100 per day fine beginning September 26, 2015.

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

11:40:05 **Case #2015500026 Jody & Stephanie Amacher**

Inspector Jefferson submitted two photographs into evidence and described the junk, trash and debris as well as junk vehicle violations on the subject property that originally came before the board on July 27, 2015 and was granted a 30 day extension. No progress has been made and there has been no contact with the Respondent. She recommended that a \$100 day fine be imposed with a start date of September 26, 2015.

11:40:43

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to find the violation and impose a \$100 per day fine beginning September 26, 2015.

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

11:40:51 **Case #2015050015 Tax Receivables Corporation**

Ms. Kelly Buck, IRC Code Enforcement Officer, submitted two photographs

into evidence and described the overgrown weed violation on the subject property that originally came before the board on June 22, 2015 and has been granted two extensions. No progress has been made and there has been no contact with the Respondent. She recommended that a \$100 day fine be imposed with a start date of September 26, 2015.

11:41:28

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to find the violation and impose a \$100 per day fine beginning September 26, 2015.

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

11:41:29 **Case #2015050009 Daniel R. Hall**

Inspector Carter Solomon described the junk, trash and debris as well as overgrown weed violations on the subject property that originally came before the board on July 27, 2015 and has been granted two extensions. No progress has been made and there has been no contact with the Respondent. She recommended that a \$100 day fine be imposed with a start date of September 26, 2015.

11:42:28

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to find the violation and impose a \$100 per day fine beginning September 26, 2015.

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

LIEN RELEASE REQUESTS

11:42:39 **Case #2014010048 – Akerley, Lynn & Suzanne and Wells Fargo Bank**

Mr. DeBlois testified that this violation related to an unmaintained swimming pool as well as a rooster being on the residence. It initially came before the Board on February 24, 2014 when the Akerly's were cited as the owners and Wells Fargo Bank was the foreclosing bank on the subject property. The Board entered a deadline of March 3, 2014 for removing the rooster from the property and a deadline of March 21, 2014 to remove a pig from the property and to clean and maintain the

swimming pool. On March 22, 2014, the issues of the pool and the rooster were not resolved and the board imposed a fine of \$100 per day with a start date of March 22, 2014. Mr. DeBlois went on to say that there is a question in this case of the timing between the imposed fine and the foreclosure action. The property came into compliance July 22, 2014 with a time passage of 122 days or a flat fine of \$12,200 with \$1700 in administrative fees. He requested that the Board acknowledge compliance and set the fine at administrative cost of \$1700 and issue a partial release of lien for the subject property. The bank would be released from the lien.

Discussion ensued as to the reason the bank should be released from the lien in relation to the date of foreclosure.

11:50:55

ON MOTION BY Mr. Myers II, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to find compliance and reduce the fine to \$1700 to cover administrative costs.

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

11:51:39 **Case #201050119 – Akerley, Lynn & Suzanne**

Mr. DeBlois testified that this violation related to overgrown weeds and junk vehicles on the subject property. It initially came before the board on July 28, 2010. The board entered a deadline of September 25, 2010 and the property came into compliance on July 22, 2014 with a time passage of 1396 days or a flat fine of \$139,600 with \$2300 in administrative fees. He requested that the Board acknowledge compliance and set the fine at administrative costs of \$2300 and issue a partial release of lien for the subject property.

11:54:53

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to find compliance and reduce the fine to \$2300 to cover administrative costs.

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

11:55:14 **Case #2014020099 – Wells Fargo Bank NA**

Mr. DeBlois testified that this violation related to overgrown weeds as well as

some unmaintained landscape issues and that it initially came before the Board on April 28, 2014. The Board entered a deadline of June 20, 2014 for the Respondent to bring the property into compliance. It came back to the Board June 23, 2014 when staff testified that the property was not in compliance and a fine was imposed beginning June 21, 2014. The property came into compliance on May 18, 2015 with a time passage of 331 days or a flat fine of \$33,100 and \$1700 in administrative fees. He requested the Board acknowledge compliance and set the fine at \$3310.

Mr. Hampton Jackson, listing agent representing the Respondent, asked the board for a possible reduction of fines.

12:01:11

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Boehning, the Board voted unanimously (5-0) to find compliance and reduce the fine to \$3310.

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

12:01:34 **Authorization for Notices to Appear**

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Myers II, the Board voted unanimously (5-0) to authorize the Notices to Appear for cases leading up to the October 26, 2015 meeting.

Other Matters

There were none.

Adjournment

There being no further business, the meeting was adjourned at 4:43 p.m.

Chairman Karl Zimmermann

Date

Lisa Carlson, Recording Secretary

Date