

## **ENVIRONMENTAL CONTROL HEARING BOARD**

The Indian River County (IRC) Environmental Control Hearing Board (the Board) held a meeting at the County Administration Building, Commission Chambers, 1801 27<sup>th</sup> Street, Vero Beach, Florida on Thursday, November 15, 2007 at 12:35 p.m.

Present were members: Vice Chairman Steve Snoberger, Engineer Appointee, Dr. Matthew Zoffer, Medical Doctor Appointee (arrived 12:37 p.m., left at 1:40 p.m.); Clete Deller and Richard Cahoy, Members-at-Large.

Absent was Chairman Alan Polackwich, Attorney Appointee (excused).

Also present was IRC Environmental Health Department (Health Department) staff: Suzanne Vitunac, Legal Counsel; Cheryl Dunn, Manager; Stacy Pressley, Environmental Specialist; and Reta Smith, Recording Secretary.

### **Call to Order**

Vice Chairman Snoberger called the meeting to order at 12:35 p.m.

### **Roll Call by Secretary**

The Secretary called the roll and after having done so, a quorum was declared present.

### **Consideration of the March, May and September Minutes**

Dr. Zoffer arrived at the meeting at 12:37 p.m.

12:56:33

**ON MOTION BY Mr. Cahoy, SECONDED BY Vice Chairman Snoberger, the members voted unanimously (4-0) to approve the minutes of March 15, 2007, as presented.**

**ON MOTION BY Mr. Cahoy, SECONDED BY Vice Chairman Snoberger, the members voted unanimously (4-0) to approve the minutes of May 17, 2007, as presented.**

**ON MOTION BY Mr. Cahoy, SECONDED BY Mr. Deller, the members voted unanimously (4-0) to approve the minutes of September 20, 2007, as presented.**

**Additions-Deletions to November Agenda** (12:57:46)

Attorney Vitunac advised the La Petite Academy, Inc. item currently listed under II (A) 3 should be moved down and become II (B) 2 under Stipulations. The agenda was approved with the stated changes.

**HEARINGS**

**Cases #349-02 and #428-07 – High Ridge Mobile Home Park** (12:58:49)

Attorney Vitunac noted there were two cases on today's agenda concerning High Ridge Mobile Home Park (the Park): Case #349-02 and Case #428-07. She requested the Board consolidate the cases for purposes of hearing since the violations involved the same subject matter.

Attorney Vitunac reviewed the information contained in the backup on file in the Commission Office. She related the Notice of Non Compliance connected with Case #349-02 was resolved by a Stipulation approved by an Order of the Board on January 29, 2003, setting a \$500 fine as well as a \$1,500 civil penalty, which was suspended and purgable contingent on the Respondent's compliance with the Stipulation for a period of one year. Attorney Vitunac noted the Stipulation required the Respondent to maintain the subject mobile home park in a sanitary manner and in substantial compliance with Chapter 64E-15 of the County's mobile home park code at all times in the future, as well as to retain an onsite resident manager for the Park.

Attorney Vitunac reported Ms. Stacy Pressley, IRC Environmental Specialist, inspected the property on September 14, 2007 and found numerous violations and no evidence of an onsite manager. On October 26, 2007 Ms. Pressley returned to the Park and found the Notice to Correct Violations had not been complied with as many of the washers were still on site and there was still garbage on the premises. Attorney Vitunac continued Case #428-07 was filed on October 29, 2007 after the Notice to Correct Violation had been disregarded, and basically reiterated the previous violations.

Ms. Pressley submitted photographs into evidence, which are on file in the Commission Office, and described the violations she had observed at the Park on September 14, 2007. She stated she had reinspected the property on October 26, 2007 and submitted photographs into evidence she had taken on that date, which

are also on file in the Commission Office. Ms. Pressley described the violations she had seen at the Park on October 26, 2007, then described what she had found in her inspection of today's date.

The Respondent, Mr. Daniel Hardee, was sworn in (1:35:23). He assured the Board he took the situation very seriously and submitted into evidence a letter he had written to the Health Department dated October 17, 2007, a copy of which is on file in the Commission Office. The Respondent explained the Park had issued its own violation notices to the tenants involved on October 10, 2007, and a copy of a sample notice is on file in the Commission Office. He noted after seven days if the tenants did not comply they were fined \$10.00 per day until they resolved the issues.

The Respondent introduced his onsite residential manager, Mr. George Trustee, and said part of his job description was to make sure the tenants were in compliance with all codes. The Respondent mentioned Mr. Trustee had earlier been in an automobile accident and was unable to walk for some time, and suggested some tenants had taken advantage of the fact he could not get around.

The Respondent described for the Board what was being done to come into compliance, and submitted into evidence photographs he had taken today along with an eviction notice for the tenant on Lot #1, copies of which are on file in the Commission Office.

Discussion followed about when the Respondent was aware of problems at the Park and what he intended to do to avoid a recurrence.

Dr. Zoffer asked to be excused and left the meeting at 1:40 p.m.

Discussion ensued about the fines charged by the Respondent to his tenants for violations.

Mr. Cahoy felt it would be prudent if the Respondent had the authority to clean up the properties without noticing the tenants and suggested he should obtain written authorization from the tenants to do so. He said he had observed a number of children living at the site and thought some of the violations constituted a health hazard.

Lengthy discussion followed about how the Park was run and who had ultimate responsibility.

Ms. Pressley reviewed her files and disclosed violations she had noted in her inspections during 2006. Attorney Vitunac opined the problems seemed to be ongoing and chronic. She related the County had alleged the Respondent failed to

maintain an onsite resident manager; however he had presented testimony that Mr. Trustee had been his employee for 12 years.

Discussion ensued about what kind of penalty should be imposed by the Board in order to avoid recurrence of the violations.

The Respondent said he would get the tenants to sign an agreement making them aware they would be responsible for maintaining their property. Attorney Vitunac had concern about the \$10.00 per day fine being imposed on the tenants by the Respondent and stated she would rather the IRC Health Department be the entity collecting the fines, because otherwise there was no deterrent for the Respondent to avoid violations in the future.

Mr. Cahoy felt it was up to the Respondent to run the business in compliance with the laws and it was his responsibility to make sure his investment was protected.

2:16:07

**ON MOTION BY Mr. Cahoy, SECONDED BY Mr. Deller, the Board voted unanimously (3-0) to impose a fine of \$7,100, with \$1,775 to be imposed immediately; and an additional \$1,775 per year, which would be purged each year for the next three years provided the mobile home park was kept in substantial compliance with 64E-15 of the County's mobile home park code and received satisfactory reports from the Health Department, and any minor violations be corrected before the next scheduled reinspection.**

## **STIPULATIONS**

### **Case #427-07 - O & N Investments, LLC et al (2:19:42)**

Attorney Vitunac reviewed information contained on pages 30 - 42 of the backup on file in the Commission Office. She advised a settlement had been negotiated for a \$500 civil penalty, which had been paid, with a \$2,500 suspended civil penalty to be purgable after compliance within one year.

Discussion followed about whether the park owner was aware of the situation.

2:22:10

**ON MOTION BY Mr. Cahoy, SECONDED BY Mr. Deller, the Board voted unanimously (3-0) to accept the Stipulation.**

**Case #426-07 – La Petite Academy, Inc.** (2:23:12)

Attorney Vitunac referred to a letter dated October 11, 2007 on page 16 of the backup on file in the Commission Office, releasing the Respondent from the extraordinary obligations required in order to quell the outbreak of Cryptosporidiosis and Giardiasis at the facility. She advised the Health Department had negotiated a settlement with the Respondent and was recommending a \$1,500 civil penalty due and payable by November 30, 2007, with an \$8,500 purgable civil penalty to be suspended and purged contingent upon compliance with the Stipulation for one year.

2:26:58

**ON MOTION BY Mr. Deller, SECONDED BY Mr. Cahoy, the Board voted unanimously (3-0) to approve the Stipulation contingent upon receipt of the signed Stipulation and payment of the fine no later than November 30, 2007.**

**CONTINUANCES** (2:27:39)

The continuances were approved as presented.  
(2:28:12)

**Hearing Board Schedule for 2008**

Attorney Vitunac presented the proposed schedule for 2008 contained in the backup on file in the Commission Office, noting the meetings would be held on the third Thursday of every other month.

2:28:45

**ON MOTION BY Mr. Deller, SECONDED BY Mr. Cahoy, the Board voted unanimously (3-0) to accept the meeting schedule for 2008.**

There being no further business, the meeting was adjourned at 2:50 p.m.