

## **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, 1840 25th Street, Vero Beach, Florida on Monday, March 27, 2006 at 1:30 p.m.

Present were Chairman Karl Zimmermann, Realtor Appointee; Vice Chairman Joe Garone, General Contractor Appointee; Joe Petrulak, Subcontractor Appointee; John Owens, Engineer Appointee; Cliff Suthard, Member-at-Large Appointee; Louis Schacht, Businessman Appointee and Dana Stetser, Architect Appointee.

Also in attendance were IRC staff: Roland DeBlois, Environmental and Code Enforcement Chief; Betty Davis, Debbie Clifford, Vanessa Carter Solomon, Rose Teague and Kelly Zedek, Code Enforcement Officers; and Reta Smith, Assistant to the Executive Aide.

### **Call to Order**

Chairman Zimmermann called the meeting to order and the secretary called the roll, establishing that a quorum was present.

### **Approval of Minutes of February 27, 2006**

Mr. DeBlois noted on page 4 of the February 27, 2006 minutes under Agenda Additions or Deletions, the 90 day extension reference stated May 26, 2006. He pointed out the Friday before the May, 2006 meeting was actually May 19, 2006, and the orders that were written from the February 17, 2006 meeting would reflect the May 19, 2006 date.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve the minutes of February 27, 2006 as revised.**

### **Attorney's Overview of Board Purpose and Procedures**

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

## **Agenda Additions or Deletions, Consent Items**

Mr. DeBlois reported the following cases had either complied, been rescheduled, or were recommended by staff for an extension of time on the Consent Agenda: Cases #2005070071, #2005080101, #2005120015, #2005120028, #2005090141, #2005090142, #2005110071, #2005070042 and #2005080111 - 30 day extension until April 21, 2006. Cases #2004070061, #2005030004, #2005040052, #2005010034, #2005110061, #2005120050 and #2005060042 - 60 day extension until May 19, 2006. Cases #2005040015 and #2005050251 - 90 day extension until June 23, 2006. Cases #2005080082, #2006020058, #2006020091, #2006020088 and #2006010116 had been rescheduled.

In compliance were Cases #2005110023, #2005110078, #2005090064, #2005110001, #2005110095, #2005120018, #2006010035, #2005120038, #2006010040, #2006020083, #2006010108, #2005120024, #2006020086, #2006010094, #2006010100, #2006010111, #2005120016 and #2005090160.

Mr. DeBlois mentioned there was one Administrative Hearing to be heard at a time certain of 2:30 p.m.

Chairman Zimmermann explained if anyone present was on the Consent Agenda and wanted to be heard, they should let the Board know; otherwise their case would be extended, based on staff's recommendation.

**ON MOTION BY Mr. Schacht, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to accept the Consent Agenda with the additions.**

## **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.

## **Case #2005090040 – Bermuda Club Homeowners Association**

Attorney Vitunac disclosed her son was clerking for a law firm representing the Bermuda Club, so she would probably have a conflict. She stated if the parties involved wanted to stipulate she could still advise the Board that was fine, but otherwise if the Board needed legal advice the ruling would have to be postponed until the County Attorney could secure alternative legal representation for the Board.

Mr. DeBlois noted there were no Respondents present for this case, however he had asked staff from another department to testify, and requested the Board proceed with the hearing. He recapped this was a stormwater drainage issue relating to the south boundary of Bermuda Club where it interfaced with the Sea Oaks development concerning a wall built on an easement and washout under the wall. Mr. DeBlois related there had been a number of meetings between the developer, Weston Real Estate, to see what would be required to meet the County's regulations for compliance.

Mr. Chris Kafer, IRC Engineer, testified he had last visited the site on March 17, 2006 with the developer and the President of the Bermuda Club Homeowners Association. He stated the wall had been repaired and there were no leaks, however there was a problem with the Sea Oaks side that was below the bottom of the wall in some areas. Mr. Kafer had told the developer the County would be satisfied with them bringing the fill on the Sea Oaks side up above the bottom of the wall and sodding the area, and the developer seemed receptive to this.

Mr. DeBlois recommended a 30 day extension, until April 21, 2006, for the developer and the Homeowners Association to work together to come into compliance. Chairman Zimmermann recommended the County Attorney's office provide the Board with legal assistant if this case came back for another hearing.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

It is noted for the record the Respondents were not present for this hearing.

**Case #2005110064 – Richard T. Vaeth**

Mr. DeBlois recapped the Board's order entered on January 23, 2006 gave the Respondent until March 24, 2006 to obtain a demolition permit and cease storage of unrelated construction material, and until April 21, 2006 to complete the demolition and remove the related debris. Inspector Davis submitted photographs into evidence, which are on file in the Commission office. She related she was on the site on March 24, 2006 and there was still construction material on the property.

The Respondent stated he had been working with the County Health Department to proceed with the requirements of the demolition permit. He advised he had started to build a garage structure prior to the hurricanes and the material on the property was associated with that. He clarified he would go to the Building

Department for a demolition permit after he was through with the Health Department, adding if need be the material could be moved ahead of time.

Mr. DeBlois noted the Respondent was working to come into compliance and recommended an overall extension until May 19, 2006, to resolve the remaining violations.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2005110035 – Rubin & Sammie K. Bryant**

Inspector Clifford advised there was no service on this case.

**Case #2006010021 – Mary K. Stelzl**

Mr. DeBlois indicated this Evidentiary hearing had to do with site plan non-conformance for dumpsters without required enclosures at a commercial plaza. Inspector Carter Solomon summarized the Respondent had requested more time to resolve the issue.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) an extension of 60 days, until May 19, 2006.**

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

**Case #2006010118 – Home Depot, USA**

Mr. DeBlois confirmed this involved sign violations and landscape non-conformance at the Sebastian Home Depot store and the illegal signs had been resolved. Inspector Davis testified 62 trees on the property had been replaced with trees smaller than the site plan called for, and recommended 60 days, until May 19, 2006, for compliance.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the Board voted unanimously (7-0) to find a violation for landscape maintenance and to approve staff's recommendation.**

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

**Case #2006020065 – Mercedes Homes, Inc.**

Mr. DeBlois reported this was a sign violation and a temporary use violation on a residentially zoned site. Inspector Davis related she had received complaints about numerous snipe signs placed in the right-of-way, and the site sign for the temporary use model home on the property had not been permitted. She submitted a photograph into evidence, which is on file in the Commission office.

Mr. DeBlois noted the portable snipe signs had been removed, but there was the one remaining sign issue. He recommended 30 days, until April 21, 2006, for the Respondent to obtain a permit and comply with the conditions or remove the sign.

The Respondent's representative, Mr. Jeff King, stated 30 days was fine and the property would be brought into compliance.

**ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006020061 – Maronda Homes**

Mr. DeBlois explained this involved a culvert placement and driveway work without permits at a residential subdivision in Vero Lake Estates, also parking of vehicles in the right-of-way. Inspector Davis submitted photographs into evidence, which are on file in the Commission office. She mentioned the port-o-lot on the site was also in the right-of-way and there was an illegal sign.

The Respondent's representative, Mr. Mark Richard, stated he had a right-of-way permit for the property and had not yet installed a culvert. He noted there were concrete trucks in and out of the site because of construction, and the vehicles crushed the culverts. He advised the culverts would be put in towards the end of the

job when the driveway inspections were done. The Respondent indicated he had asked the subcontractors not to park in the right-of-way, and felt the site was in compliance.

Mr. DeBlois asked about the port-o-let in the right-of-way. The Respondent said his notice did not say anything about that. Inspector Davis confirmed she had not cited them specifically for the port-o-let. The Respondent promised to have it moved.

Mr. Suthard thought the pictures showed a culvert. Inspector Davis explained the developer had put in a drive, but no culvert. Mr. Suthard asked if the culvert was blocking drainage to the neighborhood. Inspector Davis said it was. Mr. Suthard opined we could not wait until the project was complete before getting the culvert done, adding if the sign was a sight obstruction problem it could be addressed a lot sooner than 30 days, in order to prevent accidents. Inspector Davis noted these things were not there when she had first been at the site and sent out the initial notice.

The Respondent related he would get the sign permitted and would put the culvert in this week if need be.

Mr. DeBlois specified the parking had been resolved and recommended a 10 day time period, until April 6, 2006, for the culvert to be installed. He recommended a finding of violation on the parking in the right-of-way for a Continuing Order, so if it occurred again there could potentially be fines.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

### **Case #2006020082 – Mercedes Homes**

Inspector Davis remarked this had come to her attention through the IRC Engineering Department regarding obstruction of a drainage swale, and submitted a photograph into evidence, which is on file in the Commission office. She added the swale was pre-existing prior to site construction and it was an issue of maintaining its function during the course of construction.

The Respondent's representative, Mr. Jeff King, said he had just found out about the violation and would respond immediately with the necessary corrective action. Mr. DeBlois recommended an extension of 30 days, until April 21, 2006.

**ON MOTION BY Mr. Schacht, SECONDED BY Mr. Owens, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

### **ADMINISTRATIVE HEARINGS**

#### **Case #2006010067 – Gilbert Tutrone**

Mr. DeBlois recapped this was an unlicensed contractor citation issued through the IRC Building Department. He related roofing, soffitt, drywall, insulation, electric and plumbing work had been done without a permit, as contained in the backup on file in the Commission office.

Mr. Don Ciote, representing the Respondent, stated at the time of the incident the Respondent was not aware of what was needed to restore his hurricane damaged home. Since that time the Respondent had hired a licensed roofer and obtained the necessary permits to do the remaining work. He added the Respondent would have been present but he had been sick and his wife was also in ill health.

Ms. Betty Beatty-Hunter, IRC Building Department Contractor Licensing Division, stated after-the-fact building permits were pulled for electrical and plumbing for owner/builder.

A discussion followed about who was doing the work on the house. Mr. Garone observed the Respondent was too sick to come to today's meeting, but he was supposed to be doing the work. Mr. Petrulak agreed an owner/builder permit meant the homeowner either did the work himself or hiring a licensed person.

Mr. DeBlois maintained the citation was issued appropriately, and it was a matter of whether there were any mitigating circumstances that would warrant the Board rescinding the fine or changing the citation as written.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Garone, the Board voted unanimously (7-0) to confirm Citation No. 1014.**

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

**Case #2006020092 – Timmy L. Riggs**

Inspector Davis testified she had received a complaint from an adjoining neighbor about junk vehicles and junk, trash and debris. She specified part of the problem was the Respondent's fence had blown over during the hurricane and he was waiting to finish repairing one section because he needed his septic tank worked on. She described there had been one antique vehicle on the property, which he said he would put in the garage. The only violation Inspector Davis could see was a small pile of debris on the front part of the site.

The Respondent said he had been doing everything he could to come into compliance and promised to resolve the debris problem.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to find the junk vehicle in compliance and grant the Respondent approximately 30 days, until April 21, 2006, to resolve the debris issue.**

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

**Case #2006010053 – Richard Tallman/Tenant: Maria DelCarmen**

Mr. DeBlois advised there had been a number of cases relating to Squire Village Mobile Home Park in the past, and there were several on today's agenda. He noted both the park owner, Richard Tallman, had been cited along with the particular unit owner, who in this case was Maria DelCarmen.

Inspector Zedek submitted photographs into evidence, which are on file in the Commission office. She observed this was an addition made to a mobile home; however the homeowner had pulled an after-the-fact permit for a shed. Inspector Zedek pointed out she had visited the site with Mr. George Perez of the IRC Building Department, and he concurred it was an addition with an air conditioning unit towards the back of the mobile home. She added the structure would be permissible

but they would need to hire either an engineer or an architect to seal and approve the drawings with the current building codes.

Respondent Tallman stressed it was difficult to make the owners understand they had to have a permit and what they had to do to get the units permitted, because most of them did not speak English very well, if at all. He pointed out it was expensive to get a professional engineer in for these matters, and most of the people living in the park could not afford it. He thought there must be some kind of solution for these people without them spending a fortune to be in compliance.

Mr. DeBlois reported the code technically allowed site built additions but only as accessory-type additions, such as carports or sheds. He thought conceivably if this was not a living area there would be some potential for it to be permitted, but if it was clearly a living area addition it would not be allowed. He suggested if it was converted to a non-living area there might be some way of getting it permitted after-the-fact, but if not it would have to be removed. Mr. DeBlois recommended a 90 day timeframe, until June 23, 2006, to see if there was some way of resolving the addition use issue and permitting.

A discussion followed about how the County would know the addition was no longer being used as a living area. Mr. Petrulak said he would feel very uncomfortable accepting the idea nobody was living there and it was just an accessory structure, but at the same time knowing someone was probably going to be using it as living quarters. He thought it either met the code for its intended purpose or it did not and would not have to be removed. Mr. Petrulak clarified for him it had to be black or white and there could be no grey area.

Mr. DeBlois suggested there might be a way to convert the area into a screened Florida room that would not be air conditioned, and look at structural ways to make sure there would be less opportunity for use conversion. Chairman Zimmermann agreed with Mr. Petrulak, pointing out the 90 days was just so the County could work with the landowner to see if this could be worked out. He realized this could mean the removal of living quarters for people, and if it was possible to make some accommodation before recommending to Mr. Tallman that he start eviction procedures, he felt it was important to try and work things out.

**ON MOTION BY Mr. Schacht, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to find a violation of an addition without permits and grant an extension of 90 days, until June 23, 2006, for the Respondent to either coordinate with staff, modify the structure so it meets code both structurally and in use and obtain permits, or to remove the structure.**

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

**Case #2006010055 – Richard Tallman/Tenant: Antonia Olivera**

Mr. DeBlois related this was also a building permit matter in the same location, however in this case it was for a shed. Inspector Zedek submitted a photograph into evidence, which is on file in the Commission office. She described it was an attached shed that was being used as a shed.

Mr. DeBlois recommended 90 days, until June 23, 2006, on this case as well, even though the process might be less cumbersome than the previous case.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.**

Under discussion, Mr. Suthard wondered if the Board could modify the recommendation to say the permit would be applied for within 30 days, by April 21, 2006, with resolution within 90 days. Mr. DeBlois had no objection to the modification.

**ON AMENDED MOTION BY Mr. Owens, AMENDED SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to allow the Respondent 30 days, until April 21, 2006 to apply for the permit, and 90 days, until June 23, 2006, for compliance.**

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

**Case #2006010056 – Richard Tallman/Tenant: Lynn Bobo**

Mr. DeBlois related this case was a similar to the previous one in that it involved structures built without permits, specifically a carport and a shed. Inspector Zedek submitted a photograph into evidence, which is on file in the Commission office. Mr. DeBlois recommended 30 days, until April 21, 2006 for submittal of the permit and 90 days, until June 23, 2006, for final compliance with the permits.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006010060 – Richard Tallman/Tenant: Bernado Gonzalez**

Mr. DeBlois indicated this was also an addition used as living space, as well as a shed built without permits. Inspector Zedek submitted a photograph into evidence, which is on file in the Commission office. She described the addition as something that could be permitted because of the way it was constructed.

Mr. David Vane, a state certified general contractor representing the Respondent, said this was a screen enclosure that was approximately 20 years old with plywood on the inside and siding on the outside. He maintained the addition made it much stronger than any screen enclosure and it had stood up through four hurricanes. He said the room was not living space and opined it would not permit under today's requirements, but the shed could have tie-downs put on it and brought into compliance. Mr. Van pointed out it would cost around \$5,000 to bring any of the screen enclosures which had been modified into compliance, and the people living in the mobile home park could not afford it.

Mr. Vane wondered if the structure would be allowed if the Respondent took the windows out of the addition and put screening in there. Mr. DeBlois thought it could be a remedy to the use issue, but he would have to defer to the Building Department to see what they would accept as far as structure was concerned. He recommended a 30 day extension, until April 21, 2006, to resolve the after-the-fact permitting of the shed and 90 days, until June 23, 2006, for the addition.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the Board voted unanimously (7-0) to approve staff's recommendation.**

It is noted for the record the Respondent landowner and tenant's representative were present for this hearing.

**Case #2006010063 – Richard Tallman/Tenant: Miguel Chaverin**

Mr. DeBlois noted this was for a porch addition and a shed built without permits. Inspector Zedek submitted a photograph into evidence, which is on file in the Commission office. Mr. DeBlois recommended a 30 day extension, until April 21, 2006, to resolve the after-the-fact permitting and 90 days, until June 23, 2006, for final compliance.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006010068 – Richard Tallman/Tenant: Guadelope Robles**

Inspector Zedek submitted a photograph into evidence, which is on file in the Commission office, and described a carport on the east side, a small overhang on the west side and a shed on the north end of the property. Mr. DeBlois thought these were fairly straight forward structures that would be allowed, and he recommended a 30 day extension, until April 21, 2006, to apply for permits and 90 days, until June 23, 2006, for finalization.

Mrs. Evangelina Diaz, daughter in law of the Respondent tenant, stated she had already pulled a permit for the shed and just needed to have it inspected. She reported she had tried to get a permit for the carport and the IRC Planner of the Day had said it was fine, but when she went to the Building Department to get the permit they told her she needed to get an engineer to see if it was properly installed and had concrete on the bottom. Mrs. Diaz related she had not been able to contact anyone to do that.

Respondent Tallman mentioned a lot of the mobile homes were brought in from other parks, with the tenant paying someone to obtain the permits and set them

up the way they had been at a previous park; however it turned out when the original permit was pulled nothing was said about the awning.

A discussion followed.

Mr. DeBlois pointed out if the person who set up the mobile home was certified to do that, the Respondent could go back to him and have him certify he set the structure up according to code. Respondent Tallman suggested getting a person who was certified to set up mobile homes to certify they were set up correctly in the park. Mr. DeBlois thought this might be possible and told the Respondent to check with the Building Department.

**ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.**

It is noted for the record both the Respondent landowner and tenant were present for this hearing.

**Case #2006010070 – Richard Tallman/Tenant: Gregory Murriata**

Inspector Zedek submitted photographs into evidence, which are on file in the Commission office. She described a carport and shed and mentioned Mr. Perez of the IRC Building Department had said the carport was built very well and there would be no problem getting it permitted. Mr. DeBlois recommended a 30 day extension, until April 21, 2006, to apply for permits and 90 days, until June 23, 2006, for finalization.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Garone, the Board voted unanimously (7-0) to approve staff's recommendation.**

It is noted for the record the Respondent landlord and tenant were present for this hearing.

**Case #2006020029 – Susan Carradini**

Mr. DeBlois related this was a case of a shed constructed without permits and originally a boat/trailer storage issue, which had been resolved. Inspector Teague submitted photographs into evidence, which are on file in the Commission office. She said she was not sure if the shed would meet set-backs.

The Respondent's son, Mr. Daniel Carradini, testified he had talked to the IRC Planner of the Day who told him the shed was 12 square feet over, but it was a non-conforming lot because of the age of the property. He said when the surveying was done he would go back and try to get a special circumstance after-the-fact permit.

Mr. DeBlois recommended a 60 day extension, until May 19, 2006, for the Respondent to obtain the necessary permits and finalize the approvals in accordance with the permits.

**ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006020089 – John F. & Candace L. Belichick**

Inspector Teague submitted a photograph into evidence, which is on file in the Commission office. She described a garage enclosure converted into living quarters for the Respondent's mother.

Mr. DeBlois noted there was not necessarily a use problem, particularly if it was not being rented out to another party and being used by a relative, so it was just a matter of obtaining building permits for the modification to the house.

The Respondent testified there were no cooking facilities in the converted garage and it was strictly a bedroom. Mr. DeBlois recommended the Board find there was a conversion without building permits, and require a building permit be obtained. The Respondent explained they had retained an engineer, but in the meantime they had sold their home and would be tearing the wall out within the next 45 days. Mr. DeBlois said in that case he would recommended a 60 day timeframe for compliance, which would include the alternatives for compliance to either bring the structure back to its pre-modification configuration or to obtain the permits.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

## LIEN RELEASE REQUESTS

### Case #2002050002 – Home & Patio Inc.

Mr. DeBlois recapped this had originally come to the Board on June 24, 2002 for signs put in the right-of-way and on the building without permits, and concrete pillars poured without permits. He noted the owner at the time was Edwina Pizzo and the tenant business was Hurricane Protection Shutters, and the fine had been imposed against both Respondents on July 22, 2002.

Mr. DeBlois advised staff had recently been approached about the recorded lien clouding the title and the current owner wanted to clear it up. The new owners had gotten permits for the pillars and the signs had been removed. Inspector Zedek submitted a photograph taken in July, 2002 into evidence, which is on file in the Commission office.

Attorney Ted Herzog, representing the Respondent, explained on January 27, 2004, Home & Patio Inc., which was now Sandy's furniture owned by his brother in law and wife, Sandy Herzog, bought the property, and the code enforcement problem had shown up in the title work. Attorney Herzog advised the original owner had sold the property to someone called Lucia Robinson, who then sold it to the present owners. He listed the many things the Respondents had done to bring the property into compliance, and stressed he did not think any punitive assessment should be made against Home & Patio, Inc. because they had consistently worked to eliminate all of the problems as soon as they purchased the property.

A discussion followed about the amount of the lien not showing up at the closing. Attorney Herzog stated they had assumed it was a minor offense for a sign violation.

Mr. DeBlois specified there were two parts to this hearing; one was to acknowledge compliance had been achieved and the other was to set the fine amount. He noted the liens were against any and all real or personal property of the cited Respondent and he assumed there were options to release the property without releasing the full lien from the initial Respondents. If the fine was set at administrative costs for Home and Patio, Inc. he felt it would be in order to factor out a greater lien on other real or personal property belonging to Ms. Pizzo and Hurricane Protection Shutters.

Mr. DeBlois recommended the fine be set at \$1,500 for administrative costs to the current owner, with a punitive fine that would remain in effect but be tied only to

the initial Respondent and not the current owner. He added, using the March 24, 2006 date for when the fence permit was finally obtained, it would be approximately 44 months, or approximately \$132,000 for the flat, accrued fine. Mr. DeBlois clarified the order coming out of this meeting could simply release the subject property, but not any other property owned by the initial Respondents.

Attorney Vitunac advised the Board they would acknowledge compliance, set a fine amount, release this parcel in consideration of administrative expenses and state specifically the lien survived against any and all real and personal property of the initial Respondents, other than this property.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Suthard, the Board voted unanimously (7-0) to acknowledge compliance and set the fine at \$100 per day from July 22, 2002 to March 24, 2006, minus the administrative payment of \$1,500. In consideration of an administrative payment of \$1,500 from Home & Patio, Inc., this particular property is to be released from the lien currently running against any and all property of the original Respondents, Edwina Pizzo and Hurricane Protection Shutters.**

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

#### **Case #2005050318 – Greg Nicosia**

Mr. DeBlois recalled this concerned an order entered back in July, 2005 for the Respondent to remove or repair a dilapidated fence and remove an accumulation of junk, trash and debris from the subject property in Roseland. He continued the case had come back to the Board in November, 2005, but compliance was not achieved at that point, and the Board entered an Order Imposing Fine with an effective date of November 26, 2005. Recently the Respondent had received administrative approval for his fence and the property was in full compliance on March 16, 2006, with the fine being approximately \$12,000.

The Respondent stated the fence was completed on January 23, 2006 and when he called for inspection he was told he had to pull two permits, one for a six foot section on the sides and the back and another one for the rest of it. He described the delays he had encountered before finally getting the fence approved.

Mr. DeBlois explained one of the complications with approval of the fence was it was a six foot fence in the front yard, which was typically not allowed, so there was an additional step of administrative approval by staff, which entailed a more in-depth review. He stated staff would accept the date of January 26, 2006 as the substantial compliance date, since that was when the Respondent first called Inspector Davis requesting inspection. Mr. DeBlois estimated this would mean approximately 60 days of non-compliance, for a fine of about \$6,000.

The Respondent gave a lengthy explanation of all he had gone through to get the fence completed. Chairman Zimmermann noted he had been given 90 days in July, 2005 and there was no meeting in October, 2005 because of the hurricane, and the next meeting was November 28, 2005, so actually the Respondent had 120 days to complete the fence. He wondered if it was necessary to have a six foot fence or if it would not have been easier to simply tear the old fence down and clean up the property. The Respondent indicated he had two pit bulls and one boxer, which were guard dogs, and they could jump a four foot fence. He said he had previously had a lot of thefts at his property and drug dealers living next door, and he needed the fence for the dogs.

Mr. DeBlois recommended administrative costs plus a punitive fine in the total amount of \$2,000.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2005060159 – Antonio Vieira & Maria De Vieira Bettencourt**

Mr. DeBlois described the Board had entered an order on August 22, 2005 for dead trees that were within falling radius of adjacent property. He continued there was a Compliance hearing on November 28, 2005, which was not attended by the Respondents, and staff reported the trees were still standing. At that time the Board had entered an Order Imposing Fine, but staff had recently learned the property was now in compliance.

Mr. Scott Carson, 1060 Caroline Circle S.W., Vero Beach, a real estate agent representing the Respondents who were selling the property, stated the Respondents lived in Venezuela and had asked him to get bids from local people to cut down the trees and haul them away. Mr. Carson explained there was a large

drainage ditch in front of the property and the tree cutters could not get to the property without going through the adjacent property, but the lady who owned the neighboring property was the complainant in this case and would not let them on her land. He mentioned she had offered him \$15,000 for the Respondents' property, which he had turned down.

Mr. Carson related when he found out the neighbor had moved he contacted the new owner of the adjoining property and got permission to have the tree cutters enter from the adjacent property to cut down the trees, which was done on February 23, 2006. He summarized the subject property had since been sold and he wanted to clear up the title by the April 6, 2006 closing date. Mr. Carson asked the Board for some type of relief from the fines.

Inspector Davis corroborated Mr. Carson's testimony and confirmed he had worked on the problem from the time the property was cited. Mr. DeBlois did not know if the Board could direct a Respondent to do something that was beyond their ability to do and out of their control to remedy. He recommended a finding of compliance and a rescindment of the fine.

**ON MOTION BY Mr. Schacht, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

Chairman Zimmermann called a recess at 4:31 p.m. and reconvened the meeting at 4:40 p.m.

### **Case #2005100131 – Whispering Palms MHC LLC**

Mr. DeBlois related this Compliance hearing involved landscape maintenance and site plan non-conformance. Inspector Davis reported there was an irrigation problem on the property and nothing had been done so far. Mr. DeBlois recommended 30 days, until April 21, 2006, for compliance.

**ON MOTION BY Mr. Schacht, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2005090103 – Joseph S. Filburn**

Mr. DeBlois recapped this had to do with junk, trash and debris and housing code violations. He noted in addition to the Board's order the IRC Building Department had condemned structures and the Sheriff's Department was also involved with reports of drug use, etc. Mr. DeBlois confirmed there had not been substantial movement towards compliance and recommended the fine be imposed.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2005120055 – Lowe's Home Centers**

Mr. DeBlois related this Compliance hearing was about landscape replacement and outdoor storage in the approved parking area, and the Board's order gave the Respondent until March 24, 2006 to cease the unapproved storage and until May 19, 2006 to resolve the landscape violations. Inspector Clifford indicated they were working on the landscaping, but were still using the parking area for storage.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to find non-compliance for unauthorized storage and impose the fine of \$100 per day.**

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

**Case #2005120025 – George & Ruth Dix**

Mr. DeBlois indicated this Compliance hearing had gone the Board in February, 2006 for junk, trash and debris, commercial vehicle storage and junk vehicles. Inspector Davis stated she had visited the site on March 23, 2006 and there were still junk vehicles on the site, although the property had been cleaned up. Mr. DeBlois recommended an extension of 30 days, until April 21, 2006.

**ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006020111 – Richard & Jane Dupee**

Mr. DeBlois advised there was no service on the written order, but it was not legally required for a Compliance hearing. Inspector Clifford clarified this was a repeat violation and the Respondents did not get service. Mr. DeBlois said he would reschedule the hearing.

**Case #2006010075 – Indian River Courts Property Owners Association Inc.**

Mr. DeBlois noted this involved landscape maintenance at Vista Properties. Inspector Clifford testified when she cited them they did not understand they were to replace landscape. She indicated there were a lot of trees lying down because of the hurricane, so the Respondents removed them. Inspector Clifford stated she had called them back and told them they had to replace the trees, so they needed more time to come into compliance. Mr. DeBlois recommended the Board find a landscape maintenance violation and grant an extension of 60 days, until May 19, 2006.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006020101 – Patricia Jones**

Inspector Davis advised this case was in compliance.

**Case #2006020102 – DiVosta Homes LP**

Inspector Davis specified this was for signs in the right-of-way and on the property without permits. Mr. DeBlois recommended an extension of 30 days, until April 21, 2006.

**ON MOTION BY Mr. Schacht, SECONDED BY Mr. Owens, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006020057 – Joseph Ian Richardson & Tommas Fisher**

Inspector Davis advised this case was in compliance.

**Case #2006020062 – Celtic Contacts Inc.**

Inspector Davis stated this case was also in compliance.

**Case #2006020085 – Joyal Enterprises, Inc.**

Inspector Davis related this involved a number of signs that were illegal because of their size, also signs in the right-of-way.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to find a violation and grant an extension of 30 days, until April 21, 2006.**

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

**Case #2006020017 – James E. Young, Jr.**

Inspector Teague reported there was no service on this case.

**Case #2006020051 – Roy & Ellen Spielman**

Inspector Teague submitted a photograph into evidence, which is on file in the Commission office. She explained she had received a complaint about a bathroom addition to a commercial building. Inspector Teague confirmed the Respondents had already applied for a permit, but it was a site plan violation and needed to get administrative approval. Mr. DeBlois recommended the Board find a violation and grant an extension of 30 days, until April 21, 2006.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006020051 – Rosalie Dockeray**

Inspector Teague reported there was no service on this case.

**Case #2006020002 – Rudy Buckner**

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

**Case #2006020004 – William & Michelle Scott**

Inspector Clifford said she had no service on this case.

**Case #2006020005 – Todd Marshall**

Inspector Clifford advised the sign violation had been resolved but there was still a landscape maintenance violation and site plan non-conformance. Mr. DeBlois recommended an extension of 30 days, until April 21, 2006.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2006020054 – James & Beverly LoPresti**

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

**Case #2006020071 – Emerald Estates/IR HOA**

Mr. DeBlois specified there was a tree that had fallen down on the subject property that was blocking the emergency access to the site. Inspector Clifford submitted a photograph into evidence, which is on file in the Commission office. Mr. DeBlois recommended an extension of 30 days, until April 21, 2006, to remove the tree.

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Garone, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Case #2005120014 – Jessie Lewis**

Inspector Davis advised she had no service on this case.

**Case #2005120053 – Gregory Palmer**

Inspector Davis stated there was no service on this case.

**Case #2005120092 – The Inlet At Sebastian, LLC**

Mr. Petrulak stated he had a conflict in this case, and a copy of the Voting Conflict form is on file in the Commission office. Mr. DeBlois noted on the site plan there was a specific condition stating lighting may need to be screened to mitigate any off-site glare or glow from the property. He recapped this case had been before the Board for an Evidentiary hearing last month and the Board had granted a continuance to allow staff time to review the evidence concerning the lighting violation. He clarified at that meeting the Respondent had submitted a report that had some lighting measurements showing the light intensity reading at various distances from the light source to the boundary, and the argument was by the time you got to the edge of the property the light had diminished to such an extent it should have been considered in compliance.

Mr. DeBlois stated staff had reviewed the report and had taken the position screening was specifically mentioned on the site plan and shielding the actual light source, either through tinting of the glass or actual shielding, would be necessary. He recommended a finding of violation and an extension of 60 days, until May 19, 2006, to resolve the issue.

Inspector Davis mentioned the landscaping the Respondent had planted two weeks ago was dead again.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (6-0) to approve staff's recommendation. Mr. Petrulak did not vote because of a conflict.**

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

**Case #2004120074 – James & Tammy Richardson**

Mr. DeBlois recapped at last month's meeting on February 27, 2006 the Board had set the fine amount at \$1,000, however staff had failed to point out there were actually two adjacent properties and two distinct cases. He clarified it was essentially one property and he was recommending the Board extend the \$1,000 fine to apply to the two combined properties. Mr. DeBlois noted it was strictly a staff oversight the two cases had not been combined last month, and even though the property was two tax parcels they were essentially one project. He recommended either amending the order from last month or somehow rectify it by clarifying the \$1,000 fine applied to the combined properties.

Attorney Vitunac suggested the Board state that satisfaction of the other order would be considered satisfaction of this one.

A discussion followed about the best way to handle this issue.

Mr. DeBlois' wanted to be sure the record clarified the Order Acknowledging Compliance and Setting Fine on the other case, #2004120073, was meant to include this property, and he recommending the Board do that at this time.

**ON MOTION BY Mr. Suthard, SECONDED BY Mr. Schacht, the Board voted unanimously (7-0) to approve staff's recommendation.**

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

**Authorization for Notices to Appear**

**ON MOTION BY Mr. Owens, SECONDED BY Mr. Garone, the Board voted unanimously (7-0) to grant Authorization for Notices to Appear for April, 2006.**

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