

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, May 21, 2007, at 1:30 p.m.

Present were Chairman Joe Garone, General Contractor Appointee; Vice Chairman Keith Hedin, Businessman Appointee; Karl Zimmermann, Realtor Appointee; Joe Petrulak, Subcontractor Appointee; John Owens, Engineer Appointee and Dana Stetser, Architect Appointee.

Absent was Cliff Suthard, Member-at-Large Appointee (excused).

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

Call to Order

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

Approval of Minutes of April 23, 2007

Mr. Zimmermann noted on page one, paragraph two of the April 23, 2007, minutes he was mistakenly listed as Chairman and Mr. Garone as Vice Chairman, when in actual fact Mr. Garone was Chairman and Mr. Hedin was Vice Chairman for 2007.

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to approve the minutes of April 23, 2007, as amended.

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. 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 #2006110005, #2006120040, #2006120006, #2007020114, #2005030155, #2006060026, #2007020082, #2007020081, #2006080044, #2007030004, #2007030058 and #2007020032 - 30 day extension until June 22, 2007. Cases #2007020008 and #2007010081 - 60 day extension until July 20, 2007. Case #2006090057 – 90 day extension until August 24, 2007. Cases #2007030115 and #2007040029 were rescheduled.

In compliance were Cases: #2006100039, #2007010016, #2006120018, #2007020035, #2007020086, #2007020002, #2007030056, #2007030082, #2007020036, #2007010051, #2007020088, #2007020149, #2007030066, #2007010066, #2007030121 and #2007040085.

Mr. DeBlois noted there was an addition of two Lien Release Requests for Mark and Kathy Lehr.

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to accept the Consent Agenda with the addition.

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 #2006120061 – Gary and Catherine Pollard

Let the record show this case was originally recommended for an extension of 90 days, until August 24, 2007, on the Consent Agenda; however the Respondent said he wanted to address the matter at today's meeting.

Mr. DeBlois recapped this case had originally come to the Board as an Evidentiary hearing on February 26, 2007, for storage encroachment within the County road right-of-way, junk vehicles, a vehicle sales use established without site plan approval, and miscellaneous junk, trash and debris.

Inspector Davis submitted photographs into evidence, which are on file in the Commission office. She testified there had been correspondence between the Respondent and IRC Planning staff, because even though the automobile repair use had been grandfathered in it was limited to a maximum of six vehicles for sale at any one time. Inspector Davis stated she had visited the site today and observed numerous vehicles on the property and in the right-of-way. She added the Respondent had removed approximately 60 vehicles from the property.

Mr. DeBlois noted there was an issue of whether or not it was technically public right-of-way on the section of Dixie Highway where the subject site was located, but there were still issues of storage of vehicles and equipment outside the property.

The Respondent stated he and Mr. DeBlois had agreed to reduce the number of vehicles on site to 60, and he was working towards that end responsibly. He advised he had survey stakes in the ground and his vehicles were behind them; however Mr. DeBlois stressed the old site plan did not allow the Respondent to store vehicles anywhere on the property except in areas designated as storage.

The Respondent gave a history of the property, and a lengthy discussion followed about whether or not auto sales were allowed on the site.

Mr. DeBlois recommended an extension of 90 days, until August 24, 2007, for the Respondent to meet with County staff to go over the site plan and work to resolve the issues.

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

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

Case #2006120018 – Lewis Barton

Mr. DeBlois recalled this case had initially come to the Board on March 26, 2007, for outdoor storage of junk, trash and debris on the subject property. At that meeting it was decided to wait until the company doing beach renourishment for the County had finished with their project and cleared its equipment off the property in order to determine what material belonged to the Respondent. He noted the written minutes of the March 26, 2006, meeting made reference to May 31, 2007, as the date of termination of the contract with the renourishment company; however the

Board's 60 day extension gave the Respondent until May 18, 2007. He recommended an extension until May 31, 2007.

The Respondent stated he had asked the County Attorney to review the audio tape because he felt the minutes and the Order Finding Violation were incorrect. He maintained the Board's Order was to wait until after the contractor left his property on May 31, 2007, and then address what was left to see if he was in violation or not, and if so he would correct it. The Respondent did not see how he could be found in violation on property he had leased to the County. Attorney Vitunac told him there was presently a written Order, based on minutes approved by the Board, for the cleanup to be completed by May 18, 2007.

Inspector Carter Solomon submitted photographs into evidence, which are on file in the Commission office. Mr. DeBlois noted a lot of the materials were from the Respondent's demolished house and he did not think it was useable for reconstruction because some of it was old and rotted and would have to be removed.

A discussion followed.

Mr. Zimmermann suggested County staff meet with the Respondent when the contractor had vacated the property, in order to determine what part of the remaining items did not meet the definition of useable construction material preparatory to whatever construction the Respondent had permits for, or would shortly have permits for. Attorney Vitunac suggested the Respondent contact Inspector Carter Solomon on May 31, 2007, and set up an appointment with her and IRC Building staff. Mr. DeBlois changed his recommendation to an extension of 30 days, until June 22, 2007, to allow for clean-up of the property after the contractors left the site.

Mr. Petrulak wanted to be sure Mr. DeBlois recommendation gave the Respondent until June 22, 2007, for the property to be cleaned up to the satisfaction of Code Enforcement staff, not for the Board to meet on June 25, 2007, and give a further extension.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (6-0) to recommend the Respondent call Code Enforcement staff on May 31, 2007, and make an appointment to meet them on site, with an extension of time until June 22, 2007, for the Respondent to comply with what staff told him to do at the aforementioned meeting.

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

Case #2007010063 – Home Depot, USA, Inc.

Mr. DeBlois related this was for landscape maintenance and site plan nonconformance violations that had first come to the Board on January, 22, 2007, with extensions after that time. Inspector Davis submitted a photograph into evidence, which is on file in the Commission office. She testified she was on the site today and many trees were dead and in shock, which she felt was due to irrigation problems.

The Respondent's representative, Mr. Todd Weisman, stated the irrigation had been fixed and they were working towards compliance. He acknowledged some trees had stressed and defoliated, but they were looking better and were growing out and surviving. He showed the Board on the ELMO some pictures he had taken of the site.

A discussion ensued about whether or not the plants and trees were up to Florida Number One Standard.

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Owens, the Board voted unanimously (6-0) to grant an extension of 60 days, until July 20, 2007, for compliance.

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

Case #2006110084 – Unity Center of Vero Beach

Mr. DeBlois recapped on January 22, 2007, the Board had an Evidentiary hearing for landscape maintenance and site plan conformance in connection with a garden that had been installed instead of a buffer requirement. He continued an extension had been granted in March, 2007, until May 18, 2007, and it was not yet in compliance.

The Respondent's representative, Reverend Robin Reiter, related 36 new plants had been planted and she was not sure what else was necessary for compliance. Inspector Carter Solomon advised the material was more ornamental than what was on the site plan and it did not look like a buffer.

A discussion followed. Mr. DeBlois recommended a 60 day extension, until July 20, 2007, for compliance.

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

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

Case #2007020147 – Rene Lizbeth Arencibia

Mr. DeBlois related this Evidentiary hearing concerned the planting of coconut palms on oceanfront property oceanward of the County's Dune Stabilization Set-back Line (DSSL). He clarified there could be no planting, removal or alteration of vegetation oceanward of the DSSL except through an IRC dune maintenance permit, and it was staff's perspective the coconut palms were planted from an ornamental standpoint, rather than as dune stabilization.

Attorney Sandra Rennick, representing the Respondent, stated her client had agreed to remove the coconut palms and replace them with sea grapes. She confirmed they had obtained a Department of Environmental Protection permit and she had been working with Mr. Andy Sobczak, IRC Environmental Planner, to get approval for a modified plan.

Inspector Carter Solomon submitted photographs into evidence, which are on file in the Commission office. Mr. Sobczak testified he had not observed any areas of the dune needing stabilization and existing vegetation was fairly thick. Mr.

DeBlois said the Respondent had been cooperative in applying for a permit and it was a matter of determining if any plantings were in fact geared towards stabilization of the dune, rather than ornamental planting. He clarified any type of linear planting perpendicular to the dune, even if they were sea grapes, was an issue if it was not necessary for stabilization of the property line. Mr. DeBlois recommended an extension of 60 days, until July 20, 2007, for removal of the coconut palms oceanward of the DSSL, and if the Respondent wanted to plant something else beyond removal of the palms she would have to obtain approval from IRC staff.

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

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

Case #2006100066 – Billy & Laurel Hitchcox

Mr. DeBlois related this Evidentiary hearing had to do with property zoned for mobile homes up to eight units per acre, but under County regulations only one mobile home was permitted on each platted lot. He acknowledged exceptions were mobile home parks that had been established a long time and grandfathered in or developed as parks, adding if there was a proposal to put more than one mobile home per platted lot it would have to go through a platting process.

Mr. DeBlois described the subject property was approximately one acre in size and consisted of mobile homes existing on the property when the Respondent acquired the property. The Respondent had applied for permits to put more mobile homes on the site and permits were issued for a replacement mobile home and a mobile home set up. Mr. DeBlois stated there was some question as to whether the pre-existing mobile homes on the property before the Respondent bought it were legally placed on one platted lot, and what was approved and not approved. Staff had concluded the only thing that could happen without going through a more formal platting process would be to do a one-time split of the lot and to approve one mobile home for each of the two lots that would be created by a split.

Mr. DeBlois referred to a memorandum dated October 26, 2006, from IRC Planning Director Stan Boling, along with various e-mails, which are contained in the backup on file in the Commissioner. He outlined staff had been working with the Respondent to resolve the problems, but it was now at the point the issues could not be worked out voluntarily and he had therefore brought the case to the Board.

Inspector Clifford submitted photographs into evidence, which are on file in the Commission office, and pointed out there were currently four mobile homes existing on the property. It was her understanding the County had put Certificate of Occupancy (CO) holds on the two new mobile homes and the Respondent had stated he would remove two older mobile homes if the County released the CO's on the new mobile homes so he could get a loan approval from his bank.

A discussion followed about what the IRC Planner of the Day had signed off on.

Mr. Stan Boling, IRC Planning Director, summarized the contents of his aforementioned October 26, 2006, memorandum, and concluded ultimately only two replacement mobile homes would be allowed on the property after a one-time split and the removal of the two older ones.

A lengthy discussion ensued, with the Respondent maintaining he had been approved to have six mobile homes on the property. .

Mr. DeBlois recommended the Board find a violation and enter an Order requiring the Respondent to complete the split of the one-acre parcel and remove all but two of the units, and grant an extension of approximately 90 days until August 24, 2007, for compliance.

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

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

Case #2007030109 – Roseland Plaza LLC

Mr. DeBlois stated this involved a recurrence of a sign violation, which was being cited as a repeat violation for a previous case dating back to September, 2003. He acknowledged there might be some issues of whether the subject Checkers restaurant was under the same ownership or management since the original violation. Inspector Davis testified the sign was no longer on the property as of today.

The Respondent's representative, Attorney Casey Walker, testified the original owner, Titan Holdings, had been a franchisee operating the restaurant in 2003, but

they had been terminated in early 2006, and by June, 2006 Checkers Corporation acquired both of the Checkers stores located in IRC.

After considerable discussion, Mr. DeBlois said he would withdraw the case and if there was a problem in the future it would be cited at that time.

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

Case #2007040034 - The Inlet at Sebastian LLC

Mr. DeBlois related this Evidentiary hearing had to do with landscape maintenance and site plan nonconformance violations. He noted both the developer and the condo association had been cited in this case because there was a question as to who was the responsible party at this time. Inspector Davis submitted a photograph into evidence, which is on file in the Commission office. She said she had received a complaint from a unit owner who wanted to make sure the contractors and builders replaced dead and missing landscape before the association took over the condos. Inspector Davis testified she had visited the site today and had found there were still outstanding issues.

Ms. Lynn Heberling, representing the condominium association, confirmed once a building had received its CO the condo owners would be responsible for payment of replacement of the plants, but while a building was in transition the developer would be liable. She stated there was a problem with a well on the site and landscapers had been ordered to rectify the problem.

A discussion followed.

Mr. DeBlois recommended an extension of 30 days, until June 22, 2007, for compliance.

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

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

Case #2007040109 – William Pinheiro

Mr. DeBlois stated this involved temporary fencing for a swimming pool enclosure, a shed built without permits and junk, trash and debris. Inspector Davis submitted photographs into evidence, which are on file in the Commission office. She explained a permit for a 10 foot by 10 foot shed had been applied for, but the shed was actually 10 or 12 feet by 15 feet. Inspector Davis described the pool had an orange construction fence around it and there was construction material debris on the property.

The Respondent's wife, Debbie Pinheiro, testified she was told by the IRC Building Division staff that as long as the pool was 48 inches above ground, it would not require a permit as long as it had a removable ladder. She noted her home was currently under construction and the debris would be taken care of when the contractor was finished with hurricane reconstruction. Mrs. Pinheiro said she would get a permit for the shed if she could keep it where it was presently located.

Setbacks for the shed were discussed. Mr. DeBlois did not know if anything could be done about the shed because it had to be built according to the issued permit and it would have to be moved if it was larger than 10 feet by 10 feet. He recommended 90 days, until August 24, 2007, for overall compliance.

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

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

LIEN RELEASE REQUESTS

Cases #2006050076 & #2005120015 – Mark & Kathy Lehr

Mr. DeBlois advised both cases had to do with a property that had been cited for overgrown weeds, swimming pool enclosure, junk vehicles and junk, trash and debris. He confirmed compliance had not been achieved and Orders Imposing Penalty and Liens were entered in April and August of 2006. Mr. DeBlois estimated the fines outstanding on the property would amount to \$29,600, plus \$17,300 for the overgrown weed issue, which was presently in compliance. He noted there was now a new owner of the property.

Mr. Mel Furman, representing Highland Properties LLC, said the property had

been purchased at a foreclosure auction and it had taken 10 large dumpsters to clear debris from the site. He testified the pool had been drained, the entry points had been secured and the new owners were in the process of rebuilding the property.

A discussion ensued about why the liens had not shown up on the title search for the property.

ON MOTION BY Mr. Zimmermann to set the total fine on both cases at \$4,000. The Motion died for lack of a second, and Mr. Zimmermann withdrew it.

Mr. DeBlois recommended setting the fine contingent upon full compliance within 30 days, until June 22, 2007, otherwise the cases would come back for consideration by the Board.

ON MOTION BY Mr. Petrulak, SECONDED BY Hedin, the Board voted unanimously (6-0) to set the total fine on both cases at \$4,600, provided the property came into compliance by June 22, 2007.

After some discussion, it was agreed compliance was not tied into any separate building permit issues connected to reconstruction of the property.

Chairman Garone called a break at 5:04 p.m., and the meeting reconvened at 5:11 p.m.

Case #2006100021 – Keith Hazley

Mr. DeBlois related this Compliance hearing involved a recreational vehicle (RV) being used as a residence. Inspector Teague submitted photographs into evidence, which are on file in the Commission office, and testified it appeared the RV was still being lived in.

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to impose the fine.

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

Case #2006030073 – Robert & Jan Ford

Mr. DeBlois recapped this case involved use of property for parking across the street from the Respondent's auto repair business. He noted staff had made efforts with the Respondent to allow for the process of IRC right-of-way acquisition in order for him to get site plan approval, but nothing had happened. Mr. DeBlois observed the initial Order had been entered in April, 2006, and recommended the fine be imposed.

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

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

Case #2007020121 – Darius & Daisy Rigby

Mr. DeBlois recalled this Compliance hearing had to do with multiple issues regarding storage of equipment related to a solid waste disposal business. Inspector Davis testified a dump truck and two junk vehicles were still on the site. Mr. DeBlois recommended the Board impose the fine.

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

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

Case #2007010073 – Jeffrey Anderson

Mr. DeBlois reported this case involved a hazardous dead tree and junk, trash and debris on a single-family lot. He outlined staff had posted the property and there was no indication of contact with the Respondent, but neighbors were concerned about possible consequences in case of a hurricane. He recommended the fine be imposed.

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

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

Case #2007030017 – Arlo & Jacklyn Guthrie

Mr. DeBlois advised this Evidentiary hearing had to do with a storm-damaged riverfront house that had not been repaired and had become a potential attractive nuisance. Inspector Davis submitted photographs into evidence, which are on file in the Commission office. Mr. DeBlois recommended 30 days, until June 22, 2007, for the Respondent to secure the property and resolve the unlicensed RV violation; and 60 days, until July 20, 2007, to obtain permits and move forward with repairs on the building.

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Mr. Petrulak, the Board voted (5-1) to approve staff's recommendation. Mr. Hedin in opposition.

Mr. Hedin felt the case had dragged on because the Respondents had obtained building permits before and let them lapse without anything being done.

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

Case #2007030065 – Mark G. Anthos

Inspector Carter Solomon testified there had originally been seven junk vehicles, but only two remained. She submitted photographs into evidence, which are on file in the Commission office, and stated the Respondent told her the vehicles would be running and registered within 30 days.

ON MOTION BY Mr. Owens, SECONDED BY Mr. Hedin, the Board voted unanimously (6-0) to find a junk vehicle violation and grant an extension of 30 days, until June 22, 2007, for compliance.

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

Case #2007020106 – Fred L. Kolb, Jr.

Mr. DeBlois advised this was an issue of a pool enclosure. Inspector Clifford submitted a photograph into evidence, which is on file in the Commission office, and

confirmed there had been no application for a permit to construct an enclosure. Mr. DeBlois recommended a 30-day extension, until June 22, 2007.

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

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

Case #2007040060 – Maria Jovanovich

Inspector Davis mentioned the Respondent had been present earlier today but had to leave because she felt ill. She stated she did not have service and Mr. DeBlois decided to reschedule the case.

Case #2007040068 – James Careway & Theresa Frost

Inspector Davis advised there was no service on this case.

Case #2007040026 – Jennie Mae Clark & Livingston Earl Cleare

Inspector Zedek advised there was no service on this case.

Case #2007040028 – LaCrystal Demario & Antonio Yorker

Inspector Zedek submitted a photograph into evidence, which is on file in the Commission office. She testified one junk vehicle had been removed and all that remained was removal of a dilapidated shed. Mr. DeBlois recommended the Board find a violation and grant an extension of 60 days, until July 20, 2007, to resolve the remaining issue.

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

It is noted for the record the Respondent had been present earlier at the meeting, but was not present for the hearing.

Case #2007040067 – Maria Colon

Inspector Teague advised there was no service on this case.

Case #2007040077 – Andrew & Willard Palmer

Inspector Clifford submitted a photograph into evidence, which is on file in the Commission office. Mr. DeBlois recommended one week for the Respondents to install a temporary fence around the pool and 30 days, until June 22, 2007, apply for a permit for an enclosure.

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

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

Case #200704003 – Gator Truck Stop

Inspector Clifford advised she had cited both Gator Truck Stop and Stoney Brook Farms about a van with large advertising banners being parked on the subject property on weekends. She submitted photographs into evidence, which are on file in the Commission office. Mr. DeBlois explained staff had issued citations and the Respondents had made a blatant business decision to pay the fine and keep putting the vehicle on the site. He recommended the Board find a violation and if it recurred, to have a Continuing Order to increase the fine to \$500 per day per sign.

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

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

Case #207040013 – Tobias Milo Williams, Sr.

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

Authorization to Issue Notices to Appear

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (6-0) to authorize Notices to Appear for June, 2007.

Mr. DeBlois introduced Mr. Don Wixon, the new IRC Code Enforcement Coordinator, who would be his new assistant.

There being no further business, the meeting was adjourned at 5:36 p.m.