

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, March 22, 2010 at 1:30 p.m.

Present were Chairman; **Cliff Suthard**, Member-at-Large Appointee; **Joe Petrulak**, Subcontractor Appointee; **Joe Garone**, General Contractor Appointee; **Karl Zimmermann**, Realtor Appointee; and **Keith Hedin**, Businessman Appointee.

Absent was **John Owens**, Engineer Appointee (excused). Let the record show there is a vacancy for an Architect Appointee.

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

12:58:34 **Call to Order**

Chairman Suthard called the meeting to order and led all in the Pledge of Allegiance. The secretary called the roll, establishing that a quorum was present.

12:59:12 **Approval of Minutes of February 22, 2010**

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Hedin, the Board voted unanimously (5-0) to approve the minutes of February 22, 2010 as presented.

12:59:35 **Attorney's Overview of Board Purpose and Procedures**

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

1:03:16 **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 #2009100053, #2009050187, #2008050216, #2009070306, #200911098, #2009100104, #2009120082, #2009100090, #2009100093, #2009120001, #2009120098, #2009120065, #2009120066, #2009120068, #2010010020, #2010010017, #2010030019 and #2009090160 - 30 day extension until April 23, 2010. Cases #2010010108 and #2010020074 were rescheduled.

In compliance were Cases #2010010037, #2010010038, #2009120070, #2010010012, #2010010094, #2010010103, #2010010115, #2010020010, #2010020015, #2010020021, #2010020031, #2010020037, #2009070006, #2009100165, #2009110025, #2009110002, #2009110044, #2009090088 and #2009120076.

Mr. DeBlois noted there was an Administrative Hearing involving Young's Market on today's agenda and there was a related case on the same property listed under Evidentiary Hearings on page three. He suggested the Board heard the two cases together at a time certain of 3:00 p.m.

1:11:54

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

Chairman Suthard advised if anyone present had heard their name or case number called for a Consent item and wanted their case to be heard, they should get with their Code Enforcement Officer and the Board would accommodate their request.

1:12:46 **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.

1:13:31 **Case #2010010004 – Timothy Parsons**

Ms. Vanessa Carter Solomon, IRC Code Enforcement Officer, submitted a comment listing report from the IRC Building Department and photographs into evidence, which are on file in the Commission Office. She advised the junk vehicle and boat/trailer storage violations were in compliance and the remaining issues were junk, trash and debris, commercial equipment storage and no building permit;

however the Respondent had been working to remove the junk, trash and debris.

The Respondent (1:20:53) testified he used the bobcat for work and had it underneath a canopy in his driveway, and stated after the 2004 hurricane he was told by the IRC Building Department he did not need a permit to close in the front of his house after tornado damage. He promised to clean up the remaining junk, trash and debris by the weekend.

Mr. DeBlois recommended an extension of 60 days, until May 21, 2010, to finalize cleanup; and for the Respondent to either obtain a building permit or get clearance from the IRC Building Department to determine on what he does or does not need a permit for.

1:26:10

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Garone, the Board voted unanimously (5-0) to approve staff's recommendation.

After discussion it was established the Respondent also needed to remove a tractor within 60 days.

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

1:28:20 **Case #2010010046 – Gerald & Joanne Duhaime**

Mr. DeBlois advised this case involved a stormwater drainage violation and a fence installed in a limited access easement contrary to a Declaration of Covenant. He explained the fence had been removed from the easement; however it appeared the Respondent had started to build a fence in the side yard where it was not permitted to be.

Ms. Kelly Zedek, IRC Code Enforcement Officer, submitted a survey sketch and photographs into evidence, which are on file in the Commission Office. She related the Respondent was waiting for approval from the homeowners' association before getting a permit for the new location of the fence, and confirmed it appeared as though some fill had been brought onto the property to build up a patio.

Mr. David Hayes, IRC Engineer and Land Development Manager (1:39:48), testified the elevations across the swale on the subject property had been altered about one foot, which was an impediment to the original design of the stormwater treatment system and a considerable amount of fill had been added to the bank. He clarified to come into compliance with the original design the bank would have to be

pulled back about six feet to the rear of the patio and sloped back down, the bottom of the swale across the property would need to be dropped about 1.4 feet, and the southerly bank would need to be stabilized.

Discussion followed.

The Respondent (1:53:05) stated he had gone to the IRC Building Department and asked for permission to put in brick pavers and was told he did not need a permit. He acknowledged he had placed the pavers and carried in buckets of fill to shore up the area.

Mr. DeBlois noted the project had evolved from something more than just placing pavers and the Respondent was not authorized to do a more permanent cemented-type patio. He summarized the Respondent needed to either obtain a permit for the newly relocated fence or put in back to where it was originally permitted and coordinate with IRC Engineering staff to adjust the slope to conform to those of neighboring properties. He recommended an extension of 60 days, until May 21, 2010, for compliance.

Mr. Hayes explained exactly what needed to be done to come into compliance, and agreed to meet with the Respondent on the property and lay this all out for him.

Mr. DeBlois advised there were issues having to do with the swales on this and other properties in the subdivision involving the homeowners and the St. Johns River Water Management District.

2:10:16

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Garone, the Board voted unanimously (5-0) to approve staff's recommendation.

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

2:10:59 **Case #2010010088 – Barbara Jean Snay**

Ms. Rose Jefferson, IRC Code Enforcement Officer, submitted photographs into evidence, which are on file in the Commission Office, and described vehicles on the property that appeared not to be roadworthy.

The Respondent, Mr. Gregory Snay, son of the Respondent (2:19:27),

maintained he had registration for the two vehicles and the pickup truck tag would be renewed on March 26, 2010.

Mr. DeBlois recommended an extension of 30 days, until April 23, 2010, for the Respondent to obtain registration for the truck or demonstrate its roadworthiness.

2:21:20

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Garone, the Board voted unanimously (5-0) to approve staff's recommendation.

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

2:24:22 Case #2010030010 – Peter & July Schiapelli (National City Bank, Successor)

Mr. DeBlois related this Evidentiary hearing involved a vacant home under foreclosure with issues related to public health and safety hazard/public nuisance, junk, trash and debris and unsafe building violations. He recalled the County had worked on this property in 2008 when it was an unsecured vacant residence, and at that time the bank was responsive and boarded it up and the case was closed before it came to the Board.

Inspector Jefferson submitted photographs into evidence, which are on file in the Commission Office, and Mr. DeBlois pointed out how the building had been reentered and vandalized and the boards removed. Inspector Jefferson confirmed the IRC Building Department was in the process of condemning the building.

Attorney Karen Black-Barron, representing the bank (2:32:24), testified the bank intended to clean up and secure the property and were seeking bids to accomplish this; however they would need a minimum of 30 to 45 days to complete the process. She added the bank was still in the process of obtaining summary judgment and did not own the property; however it was their desire to repair the home.

Mr. DeBlois stressed concerns about at least the initial boarding up of the structures and wondered if this could be accomplished sooner.

Discussion ensued.

Mr. DeBlois recommended the Board grant ten days, until April 1, 2010, for the bank to secure the structure; 30 days, until April 23, 2010, to complete cleanup of the junk, trash and debris and interior and exterior of the property; and 120 days, until July 23, 2010, to bring the structure into compliance or tear it down..

2:40:24

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation.

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

2:42:48 **Case #2009120021 – Heon Yong & Ae Ja Kim**

Mr. DeBlois wished the Board to hear this Evidentiary case before addressing the Administrative Appeal of a citation issued to Young's Market on U.S. Highway 1 for illegal banners and other signs on the subject property.

Inspector Zedek submitted photographs into evidence, which are on file in the Commission Office, and described signs against the building advertising orchids for sale. She noted the Respondents had come into compliance with the original signs, but this was an ongoing problem and she had since seen a truck on the site with a sign painted on the side advertising orchids and a commercial vehicle north of the parking lot advertising the market.

Mr. DeBlois reviewed the County's sign ordinance, a copy of which is on file in the Commission Office. He recommended the Board find violations existed, both with the truck signs and the other illegal signs submitted as evidence.

Respondent owner Mr. Mike Kim (2:50:59) said he had moved to a new building and he parked the truck with the market's name so people would know where the business was relocated to. He claimed he was being singled out and did not know why he was in violation.

Mr. DeBlois recommended the Board find a violation existed on the plywood signs and find it currently in compliance; find the truck signs were in violation and could be resolved by the trucks being relocated to regular parking spaces within 24 hours; and enter a Continuing Order in the event a violation recurred in the future.

2:57:08

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr.

Hedin, the Board voted unanimously (5-0) to approve staff's recommendation.

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

ADMINISTRATIVE HEARING

2:57:42 **Case #2010020085 – Young's Market**

Mr. DeBlois recapped this had to do with a zoning citation issued on February 15, 2010 to the Respondent for two illegal signs in the amount of \$100 per sign, for a total of \$200.

Ms. Debbie Clifford, IRC Code Enforcement Officer, submitted photographs into evidence, which are on file in the Commission Office. She testified she received complaints about two signs advertising roses for sale on the subject property, and on February 13, 2010 she had explained to the owner the signs and an unpermitted tent needed to be removed. Inspector Carter Solomon confirmed she passed by the site the next day and observed the tent was down but the same signs were on the property.

The Respondent stated Inspector Clifford had told him he could attach the signs to his vehicle, and that was what he did.

Mr. DeBlois stressed his position was the citation was issued appropriately because the signs were there the day after Inspector Clifford had advised the Respondent on what was not allowed.

Discussion followed about where the signs were located.

3:18:33

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted (4-1) to uphold citation #0180 and set the fine at zero. Mr. Hedin opposed.

Mr. Petrulak wanted to be sure the Respondent understood what was and was not allowed, and explained it to him.

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

Chairman Suthard called a recess at 3:50 p.m. and reconvened the meeting at

4:03 p.m.

LIEN RELEASE REQUEST

3:21:04 **Case #2008070074 – Paul & Mary Ellen Lathim**

Mr. DeBlois summarized this involved a case that had originally been to the Board in August, 2008 for junk, trash and debris, and an Order Imposing Fine had subsequently been entered with an effective date of September 20, 2008.

Inspector Carter Solomon confirmed she had verified compliance on February 22, 2010; however the Respondents' son, Mr. Darren Lathim, had been living in the house and was signing the green card for the tenant as well as his mother. She found out recently the mother had been in a nursing home and was unable to make decisions and the son was responsible for the run-down condition of the property. Inspector Carter Solomon added Mr. Paul Lathim was deceased, and Mr. Darren Lathim had been the tenant until he was forcibly removed from the premises.

Mr. DeBlois advised there were 520 days of noncompliance for a flat fine of \$52,000.

Respondent Mr. Peter Benz, son-in-law of Mrs. Mary Ellen Lathim (3:26:50), testified Mrs. Lathim was not living on the premises after April, 2008, before the violation occurred. He stated he and his wife were not aware of what was going on until IRC Animal Control had brought a case against Mr. Darren Lathim in January, 2010, and it was the Benz's intention to sell the property as soon as the lien could be released.

Mr. DeBlois noted there were mitigating circumstances in this case and recommended the fine be reduced to \$2,000.

3:32:37

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Garone, the Board voted unanimously (5-0) to approve staff's recommendation.

It is noted for the record the Respondents' son-in-law was present for this

hearing.

REHEARING REQUEST

3:33:01 **Case #2008080043 – Frederick & Rita Mensing**

Attorney Vitunac stated she might have a conflict in this case and would refrain from giving advice to the Board.

Mr. DeBlois recalled this was a case where the Board had entered an Order Imposing Fine on October 24, 2009 for two mobile homes on a tax parcel, which was more than one year after the initial notice was sent and many extensions had been granted. He related there were still two mobile homes on the property and only one was being lived in; however the issue of the Order had to do with the old mobile home still being on the property.

The Respondent (3:39:26) explained the problems he had encountered with the bank, his neighbor, the County, and his wife's illness, and claimed economic discrimination.

Lengthy discussion ensued.

Mr. DeBlois confirmed at present there were 149 days of noncompliance which amounted to a flat fine of \$14,900.

4:08:40

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted (3-2) to conditionally set the fine at \$5,000, contingent upon compliance being achieved within six months, by September 24, 2010. If compliance was not achieved, the fine would revert back to the Board's original Order. Mr. Petrulak and Chairman Suthard opposed.

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

4:10:41 **Case #2009120006 – Kelley Loudermilk & Eric Gagnon**

Inspector Jefferson advised she had no service on this case.

4:11:04 **Case #2010010027 – Carl Lachnitt**

Inspector Jefferson stated she had not received service.

4:11:20 **Case #2009090029 – Indian River Real Estate LLC**

Mr. DeBlois related the use established without site plan approval violation had been resolved and what remained was a site plan nonconformance violation for landscape maintenance and junk vehicles being stored on commercial property.

Inspector Jefferson submitted a site plan and photographs into evidence, which are on file in the Commission Office. Mr. DeBlois recommended the Board find the violations and grant an extension of 90 days, until June 25, 2010 for compliance.

4:13:25

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:13:36 **Case #2010010078 – James Scott**

Inspector Carter Solomon submitted an Affidavit of Service dated March 12, 2010 and photographs into evidence, which are on file in the Commission Office. She described overgrown weeds, swimming pool enclosure and pool maintenance violations at a vacant house.

Mr. DeBlois recommended an extension of seven days, until March 29, 2010, to secure the pool fencing and 30 days overall, until April 23, 2010 for the mowing and pool cleaning.

4:14:47

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation. .

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

4:15:55 **Case #2010010093 – Timothy Johns**

Inspector Jefferson advised she had not received service on this case.

4:16:05 **Case #2010010116 – Karen & Heber Paizante**

Ms. Betty Davis submitted a photograph into evidence, which is on file in the Commission Office, and related the recreational vehicle (RV) violation was in compliance but there was still an issue of junk, trash and debris on the property. She recommended an extension of 30 days, until April 23, 2010 for compliance.

4:16:56

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:17:20 **Case #2010020003 – Kelly Langford**

Inspector Jefferson confirmed she had no service on this case.

4:17:24 **Case #2010020004 - St. Lucie Development Corporation**

Inspector Jefferson said she would withdraw this case for lack of service.

4:17:54 **Case #2010020012 - First Union National Bank of Florida (Wachovia Bank)**

Inspector Davis submitted photographs into evidence, which are on file in the Commission Office, and described landscape and site plan nonconformance violations. She recommended an extension of 30 days, until April 23, 2010 for compliance.

4:19:03

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:19:11 **Case #2010020017 – Mayfair Ship Supplies Inc. (Wendy's) (Athena Molloy)**

Inspector Davis submitted photographs into evidence, which are on file in the Commission Office, and described landscape and site plan nonconformance violations. She recommended an extension of 30 days, until April 23, 2010 for compliance.

4:19:54

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Hedin, the Board voted unanimously (5-0) to approve staff's recommendation. .

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

4:20:18 **Case #2010020029 – First National Bank & Trust**

Inspector Davis submitted a photograph into evidence, which is on file in the Commission Office, and advised the Respondent was missing a hedge in their landscaping. She recommended an extension of 30 days, until April 23, 2010 for compliance.

4:20:33

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation. .

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

4:20:42 **Case #2010020034 – Century Reality Funds, Panther IX**

Inspector Davis submitted photographs into evidence, which are on file in the Commission Office, and explained this case involved landscape maintenance and site plan nonconformance violations including sinkholes in front of the Olive Garden restaurant. She recommended an extension of 30 days, until April 23, 2010 for compliance.

4:22:04

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation.

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

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Zimmermann, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:25:04 **Case #2010020077 – Carmen Falcetta**

Inspector Carter Solomon described a pool maintenance violation and submitted a photograph into evidence, which is on file in the Commission Office. She recommended an extension of 30 days, until April 23, 2010 for compliance.

4:25:56

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:26:08 **Case #2009110049 – Odyssey (II) DP V LLC (Granite Marble & Sink Outlet)**

Mr. DeBlois recapped this Compliance hearing first came to the Board in January, 2010 and had to do with obtaining an after-the-fact sign permit and a build-out permit for interior modifications. Inspector Zedek confirmed nothing had been done towards compliance and no permits had been applied for. Mr. DeBlois recommended the Board impose the fine.

4:28:03

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:28:14 **Case #2009050053 – The Salvation Army**

Mr. DeBlois summarized the Board had entered its initial Order in July, 2009, with extensions granted. Inspector Jefferson advised nothing had been done to correct the landscape maintenance violations and submitted a site plan and photographs into evidence, which are on file in the Commission Office. Mr. DeBlois

recommended the fine be imposed.

4:30:30

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:30:51 **Case #2009100071 – Lara Eliseo**

Mr. DeBlois related this case had originally been to the Board in January, 2010 for overgrown weeds. Inspector Clifford submitted a photograph into evidence, which is on file in the Commission Office, and confirmed nothing had been done. Mr. DeBlois recommended the fine be imposed.

4:32:42

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Hedin, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:32:53 **Case #2009090096 – Ted & Michele Waters**

Mr. DeBlois recapped this involved a junk vehicle and junk, trash and debris violations on a case the Board had first heard in November, 2009. Inspector Jefferson submitted photographs into evidence, which are on file in the Commission Office, and said she had not had any contact with the Respondents. Mr. DeBlois recommended the Board impose the fine.

4:35:09

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:35:23 **Case #2010020115 – Makin Holdings Inc.**

Mr. DeBlois related this case was put on the agenda as a repeat violation for

commercial vehicle storage and a zoning district use violation on multi-family zoned property. Inspector Zedek submitted photographs and an Affidavit of Service dated March 9, 2010 into evidence, which are on file in the Commission Office, and noted even though the Respondent had complied with the previous Order entered in May, 2009, the violations had recurred.

Mr. DeBlois recommended the Board impose a \$500 fine, with a 30 day time frame, until April 23, 2010, for compliance, and if compliance was not reached by that date the \$100 per day fine would be imposed,

4:37:04

ON MOTION BY Mr. Zimmermann, SECONDED BY Mr. Hedin, the Board voted unanimously (5-0) to approve staff's recommendation.

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

4:37:13 **Authorization for Notices to Appear**

ON MOTION BY Mr. Hedin, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to Authorize Notices to Appear for April, 2010.

There being no further business, the meeting was adjourned at 5:20 p.m.