

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, February 28, 2011 at 1:30 p.m.

Present were Chairman **Keith Hedin**, Businessman Appointee; Vice Chairman **Joe Petrulak**, Subcontractor Appointee; **Cliff Suthard**, Member-at-Large Appointee;; **Joe Garone**, General Contractor Appointee and **John Owens**, Engineer Appointee.

Absent was **Karl Zimmermann**, Realtor 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, Rose Jefferson and Kelly Buck, Code Enforcement Officers; Robert Keating, Community Development Director; Jose Gaunch, Building Official; and Betty Beatty-Hunter, Permit Specialist I, Contractor Licensing. Others present: Attorney Wayne Coment, Attorney for the Board; and Darcy Vasilas, Commissioner Assistant District 3, Recording Secretary.

12:01:25 Call to Order

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

12:02:34 Approval of Minutes of January 24, 2011

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the Board voted unanimously (5-0) to approve the minutes of January 24, 2011 as presented.

12:02:48 Attorney's Overview of Board Purpose and Procedures

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

12:07:32 **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 #2010090161, #2010110018, #2010100017, #2010100050, #2010100123, #2010110106 - 30 day extension until March 25, 2011. Cases #2010070161, #2010100191, #2010100217, #2011010031, #2010110126, #2011010020, #2011010090, were rescheduled.

In compliance were Cases #2010100162, #2010120109, #2010110038, #2010100207, #2010100167, #2011010019, #2011010084, #2010110113, #2011010088, #2011010060, #2011010034, #2010120058, #2010110102, #2010120084, #2010120042, #2011010056, #2010070286, #2011020041, #2011020120, #2011020121, #2010070020, #2010090115, #2010090118, #2010090206, #2010090150, and #2010110042.

Mr. DeBlois announced there was an addendum to the agenda; an Administrative Hearing, which would be heard at a time certain of 2:30 p.m.; and two additional Lien Requests, which would be heard with the others at a time certain of 3:00 p.m.

12:14:09

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

Chairman Hedin 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.

12:14:44 **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.

12:14:59 **Case #2010110095 – Cecial Clark**

Mr. DeBlois reported this Evidentiary hearing related to a residential property with the issue of overgrown weeds, junk, trash and debris violations. There was also an abandoned block structure existing on the property with the roof missing.

Ms. Kelly Buck, IRC Code Enforcement Officer, presented a photograph into evidence which is on file in the Commission Office. She reported there had been no change to the property since the last meeting.

Mr. Cecial Clark testified he had removed the roof from the house but the walls remained. He lived in Orlando and trash continued to be dumped on his property. He asked for some time to clean the property but was not currently working.

Discussion was held regarding whether or not the structure needed to be torn down. Mr. DeBlois stated from a code enforcement standpoint, he would recommend the structure be removed and would recommend granting 60 days, until April 22, 2011 to bring the property into compliance.

Mr. Clark questioned why the building had to be demolished as they were concrete blocks. He had planned to rehabilitate the house and felt it was structurally sound since he had removed the roof which was destroyed. He had purchased the property from the County to rehabilitate.

Mr. DeBlois stated if the Respondent wanted to preserve the building, and if the Building Department found the building to be structurally sound and acceptable to remain until rebuilt, he would consider changing his recommendation as long as the property was cleaned up and any potential hazards resolved.

12:25:06

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the members voted unanimously, (5-0) to approve staff's recommendation of granting 60 days, until April 22, 2011 to clean up all violations and have an inspection of the existing structure by the Indian River County Building Department.

The Respondent was present for this case.

12:25:36 **Case #: 2011010064 - Cecial Dale Clark**

Control and Stormwater Division visit the site to determine if any environmental or drainage issues existed and both reports were negative.

Mr. DeBlois asked if Inspector Buck was aware of any correspondence between the Respondent and IRC Planning regarding the issue of whether or not the car repair use was grandfathered on the property.

Inspector Buck submitted a letter into evidence dated February 4, 2011 from Stan Boling, IRC Planning Director, responding to a January 14, 2011 letter from the Respondent, Kathy Swink, in which he states "Because the site is zoned residential, any legally established and grandfathered-in commercial use of the site is considered a non-conforming use that is governed by the county's non-conformities regulations. The non-conformities regulations allow uninterrupted continuation of legal non-conforming uses. That allowance, however, does not allow any expansion in area or increase in intensity of the non-conformity, nor re-establishment of any non-conformity that has ceased for a continuous period of one year or more." A petition was also submitted with signatures stating Skyline Scaffold had done repair work on cars, lawn mowers, tractors, and bicycles, and sold tires, repaired tires and did welding work.

Another letter from Mr. Boling dated February 22, 2011, stated "Because the scaffold business is the only business on the site that has not ceased for a continuous period of one year or more, that is the only non-conforming commercial use that is considered grandfathered-in. Establishing or re-establishing any other non-conforming use on site is prohibited under the county's non-conformities and zoning regulations."

Mr. DeBlois summarized he recommended the Board find the auto repair work as a business was not allowed on the site because it was not vested or grandfathered-in as a legal nonconformity, and grant 30 days, until March 25, 2011, to finalize the cessation of the auto repair business on the property.

Ms. Kathy Swink, and her son Justin Swink, testified there had never been a cessation in car repair work on the property; albeit maybe not as much as there had been recently, but it never ceased to occur on the site since they purchased the property in 1999.

Ms. Swink stated they have recently placed a permitted sign on the property identifying her son's car business, under a separate name as SR Customs. If it was just a matter of taking the sign down and not using the separate name, they were

willing to that.

Mr. DeBlois inquired if since Ms. Swink has owned the business, was it allowable for anyone from the public to come in for auto repairs. Ms. Swink replied in the affirmative.

Discussion was held regarding other evidence, such as a business license showing auto repair that could be submitted to prove an auto repair business had continually been in operation. Ms. Swink responded they had only the Occupational License for Skyline Scaffold.

Mr. Todd Walls and Mr. Tracy Norris both testified there had been continuous car repairs on site, but due to the downturn in the economy and lack of scaffolding business, in order pay bills more car repair business had taken place.

Mr. DeBlois stated the scaffold business was the business that was grandfathered-in; if there was some level of auto repair incidental to that use, then that could be dealt with; but what was being shown was an auto repair use that had its own distinct license and now we were going through a situation where they wanted a separate distinct business license for it. Therefore, staff recommended the Board find the auto repair business on the property as a licensed or principal use which was not allowed under the zoning district and was not grandfathered-in. If there were to be an auto repair business incidental to the scaffold business, as evidenced by testimony, it cannot be a separate public auto repair business.

Mr. DeBlois summarized staff could condition to give the Respondents a period of time to either cease the use completely or provide information that would substantiate it was an established use that had always been there and had not discontinued for a period of a year or more.

12:59:31

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the members voted (4-1) to allow the Respondent 120 days, until June 24, 2011 to either cease the auto repair business or to provide evidence for the car repair and painting business demonstrating it had been part of the grandfathered-in use. Mr. Garone opposed.

The Respondent was present for this hearing.

Mr. Hitchcock relayed the sequence of events he had been going through in obtaining the possession of the property as it was a short sale and there were many parties involved.

Mr. Jose Gaunch, IRC Building Official, testified a few days prior to the issuance of Stop Work Orders, Mr. Hitchcock had visited his office. He asked about obtaining a fence permit for the property and was told he needed a licensed contractor to apply for the permit and indeed, a permit was required. A couple of days after that, the fence went up and no permit application had been received. Once the owner and Mr. Hitchcock had been cited, a contractor did come to apply for the permit and was told to go speak with both the Planning Department and the County Attorney to obtain approval to issue a permit. The contractor never returned.

1:24:29

ON MOTION BY Mr. Petrulak, SECONDED BY Mr. Suthard, the Board voted unanimously (5-0) to uphold the citation issued for \$500.

The Respondent was present for this hearing.

The Chairman called for a break at 2:55 p.m. and resumed the meeting at 3:01 p.m.

LIEN RELEASE REQUESTS

1:26:57 **Case # 2004050007 – William H. Thomas**

Mr. DeBlois summarized this case involved commercial vehicles storage at a residence, junk vehicles, zoning district use violation, junk, trash and debris violations. The Respondent was given until August, 2004 to resolve the violations but was not brought into compliance and entered a fine of \$100 per day beginning July 23, 2005. As of December 1, 2010 the violations had been confirmed by staff as resolved.

Inspector Buck verified Mr. DeBlois' statement of compliance. Mr. DeBlois stated more than five years had passed, 1,957 days totaled a flat fine of \$195,700.

Ms. Diane Thomas, daughter of Respondent, testified her father had lived in the house since 1958 and collected junk for resale. Mr. Thomas passed away on

Compliance was verified as of February 15, 2011.

Mr. Tracy Norris testified he had been incarcerated from 2005 to 2009 and was unaware of the existing lien. When Inspector Kelly had recently contacted him regarding another code issue, she informed him of the lien and he immediately took care of the violation.

Discussion was held regarding the confusion Nikki Norris may have had regarding the hearing she attended in 2005 where an extension was granted, but she never followed through with contacting Inspector Buck when the one boat was removed. Since Inspector Buck would have inspected the property prior to the Compliance Hearing where the fine was imposed, the violation had not been resolved at that time so the fine was imposed. Based on the flat rate, there would be 1,907 days totaling \$190,700. Staff therefore recommended a fine of \$1,600.

1:58:54

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Petrulak, the members voted unanimous (5-0) to approve staff's recommendation.

The Respondent was present for this hearing.

2:00:34 **Case #2009090077 – Constance Call**

Mr. DeBlois recapped this case had to do with a junk, trash and debris violation in September, 2009 against a Continuing Order and the Board imposed the fine with a start date of September 18, 2009. Staff inspected the property and verified appliance at least as of December 1, 2010. Based on the \$100 per day fine accruing for 439 days, there was a flat fine of \$43,900.

Ms. Vanessa Carter Solomon, IRC Code Enforcement Officer, testified the property could have come into compliance prior to the December 1, 2010 date because the bank was not a party to the code case and when they took possession of the property they went in and cleaned up the property.

Ms. Sherrie Brown, realtor representing the bank, testified the bank possession on May 18, 2010 and when she first went to the property in June, 2010 there was nothing outside so the bank did not actually clean up the property.

Mr. DeBlois stated based on the testimony received, staff would recommend

the fine be set at \$2,600.

2:06:30

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the members voted unanimously (5-0) to approve staff's recommendation.

The realtor representing the bank was present for this hearing.

2:07:08 **Case #2008120001 - Thomas A. & Elizabeth F. Jackson**

This case was withdrawn to be rescheduled since no one was present.

2:07:15 **Case #2007100188 - Elroy & Kristan Thiel**

This case was withdrawn to be rescheduled since no one was present.

2:07:30 **Case #2006060111 - Damien H. & Bonnie Gilliams**

Mr. DeBlois recapped this case involved overgrown weeds; health and safety hazard/public nuisance issue relating to a dilapidated dock; junk, trash, and debris; overgrown weeds and fence or wall violations dating back to August, 2006. On August 25, 2007 a fine was imposed. The Respondent recently contacted staff about the recorded lien to try to finalize the situation.

According to IRC Building Department records, the dock had received a partial Certificate of Occupancy (CO) for the portion completed dated February 27, 2008. The dock was never completely rebuilt according to the initial permit which ultimately expired. From staff's perspective, the health and safety hazard/public nuisance violation was resolved with the issuance of the partial CO. Therefore, there would be 186 days, or \$18,600 of a flat fine.

Mr. Damien Gilliams testified he had removed the boathouse under the dock repair permit which he felt was the issue. He was unaware there was a fine imposed until he spoke with Inspector Davis. He was asking for leniency and release of the lien on his property.

Mr. DeBlois stated there were several extensions on this case and Mr. Gilliams was present at the Compliance Hearing where the fine was imposed. Based on that information, staff would recommend the fine be set at \$3,000.

2:17:27

ON MOTION BY Mr. Suthard, SECONDED BY Mr. Owens, the members voted unanimously (5-0) to approve staff's recommendation.

The Respondent was present for this hearing.

2:18:01 **Case #2009110020 - Princeton Investments, LLC**

Mr. DeBlois recapped this case dated back to February, 2010 involving a sizeable property with structures that were dilapidated and in unsafe condition. The property was acquired for redevelopment and the structures were deemed unsecured and unmaintained creating a hazard. The orders had required the junk, trash and debris be removed, and the structures either be permitted and brought into compliance or removed from the property. In October, 2010 the structures had not been secured, there were still some junk, trash, and debris issues so a fine was imposed. It had been 128 days since the fine was imposed, totaling \$12,800.

Ms. Betty Davis, IRC Code Enforcement Officer, testified there were five structures on the property, piles of lawn debris and the neighbors have complained about kids going into at least one of the structures.

Mr. Jose Gaunch, IRC Building Official, testified the property was inspected on November 19, 2009 and all the structures were in danger of collapsing at any time. The structures were open, had been vandalized, open to rodent infestation and in complete abandonment.

Mr. Scott McGuire, representing the owner, stated some of the violations had been taken care of. Some of the brush was removed, a fence was put up, and there was a chain put across to prevent access. He was hoping to negotiate a settlement without having to remove structures. Neither the Respondent nor Mr. McGuire were present at the meeting where the fine was imposed and were unaware of the action. The certified letters to the Respondent were returned to staff unsigned.

Inspector Davis recapped the notices and methods used for transmittal.

Mr. McGuire related he was currently getting quotes for demolition, he anticipated the owner could afford to remove some of the structures, but not all of them.

3:52:34 **Case #2011010092 – Bryan Bradburn**

Inspector Davis related this was a house in foreclosure with an overgrown weeds violation. She submitted a photograph into evidence and recommended 60 days, until April 22, 2011, to bring the property into compliance.

3:52:58

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

The Respondent was not present for this hearing.

3:53:10 **Case #2010120108 – Old Dixie Plaza, LLC**

Inspector Buck testified there had been no service received on this case.

3:53:20 **Case #2011010066 – Gifford Gardens, LLC**

Mr. DeBlois recapped this was an unsecured vacant structure with junk, trash and debris violations.

Inspector Buck submitted photographs into evidence, which are on file in the Commission Office.

Mr. DeBlois recommended granting 30 days, until March 25, 2011 to bring the property into compliance.

3:55:52

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

The Respondent was not present for this hearing.

3:56:00 **Case #2011010067 – Gifford Gardens, LLC**

Inspector Buck related this case involved junk, trash, and debris violations at an abandoned house. She submitted photographs into evidence which are on file in the Commission Office.

