

**CODE ENFORCEMENT BOARD MINUTES
2:00 P.M. THURSDAY, NOVEMBER 16, 2006
AT THE TOWN COUNCIL CHAMBERS, 360 SO. COUNTY ROAD**

I Call to Order: The meeting was called to order at 2:00 p.m. by Chairman Timothy Hoffman.

II Roll Call: Present: Timothy Hoffman, Chairman
 Richard A. Raffo, Vice-chairman
 Larry Ochstein, Member
 Martin I. Klein, Member
 Harris S. Fried, Member
 Catherine M. Duemler, Member
 Madelyn Greenberg, Alternate Member
 John C. Randolph, Town Attorney

 Absent: Joel P. Koeppel, Member (unexcused)

 Staff: Robert S. Walton, Chief Code Compliance Officer
 Deborah A. Morakis, Recording Secretary

Let the record reflect that Ms. Greenberg will vote today.

III Administration of the Oath to all persons who wish to testify:
Let the record show that all persons testifying were sworn in at this time by Recording Secretary Debby Morakis.

IV Approval of the Minutes of October 19, 2006:
MOTION BY MR. KLEIN FOR APPROVAL OF THE MINUTES.
MOTION SECONDED BY MS. DUEMLER.
MOTION PASSED UNANIMOUSLY.

V Public Hearings:

A Case #06-2033, 111 Bradley Place (aka 280 Sunset Ave), New Bradley House Ltd.
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, doors and windows shall be reasonably free of cracks, painted and shall be kept in sound condition and good repair.

Chief Code Enforcement Officer Walton reported to the Board the facts in this case. Mr. Walton reported that service had to be obtained by posting the property. Permits have been obtained for roof and balcony repairs. The property manager wished to wait for the roof work to be completed before painting commenced.

Testimony was heard from Rick Kron, General Manager of the Bradley House who reported to the Board the status of the project. Balcony railing repairs will be completed by November 30, roofing repairs will be completed by December 15, and paint touch up will be completed by December 15 providing right-of-way permits are obtained. The owners of the hotel believe it is important to maintain the property and plan to paint the entire building after the season.

Chief Code Officer Walton recommended the defendant be found in non compliance, ordered to pay \$150.00 administrative costs. Roofing repairs must be completed by November 30, 2006, that painting is touched up for the season by December 15 and balcony railing repairs are completed by December 15.

**MOTION BY MR. KLEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND IS FURTHER ORDERED TO COMPLETE THE BALCONY RAILINGS, ROOF REPAIRS AND PAINTING TOUCH-UP BY DECEMBER 15, 2006.
MOTION SECONDED BY MS. GREENBERG.
MOTION CARRIED UNANIMOUSLY.**

- B Case #06-2043, 324 Cherry Lane, Cheryl Minikes
Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances states unsightly, unsafe and unsanitary conditions constitute a nuisance and requires properties be maintained in good condition.

Chief Code Officer Walton distributed photographs of the property to the Board. Service was not obtained so the property was posted on October 20, 2006. This property is slated for demolition. The application for demolition has been submitted to the Town.

Attorney Maura Ziska, here on behalf of the property owner, testified that the owner plans to build a new two-story residence on this property. There are variances required and a combination project such as this needs to go to ARCOM for an informal review, be heard by Town Council for approval and then go back to ARCOM for final review before the permit process can begin. Demolition is planned for the end of January or early February 2007, as soon as approvals are granted. Variances have been applied for and the project is on the Town Council Agenda for January 2007 and ARCOM agenda January and/or February 2007.

Chief Walton recommended that the house be sealed, the lot be hydro-seeded and irrigated and if the house stands for more than 60 days, repairs must commence. After further discussion, the following motion was made:

**MOTION BY MR. KLEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND FURTHER ORDERED TO APPLY FOR THE DEMOLITION PERMIT IMMEDIATELY. THE LOT MUST BE HYDRO-SEEDED AND IRRIGATED. THE DEFENDANT MUST REPORT TO THE CODE ENFORCEMENT BOARD AT THE DECEMBER 21, 2006 CODE ENFORCEMENT BOARD HEARING.
MOTION SECONDED BY MS. DUEMLER.
MOTION CARRIED UNANIMOUSLY.**

- C Case #06-2048, 3360 So. Ocean Blvd., Atriums of Palm Beach Condominium II
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code 2001, Section 104: building permits are required.

Chief Walton testified to the facts in this case. Permits for building, electric or plumbing work were not obtained before commencing work. A building permit was obtained but no electrical or plumbing permits were obtained. These violations are considered a safety hazard. There was a bit of confusion on behalf of the building manager, who has since been cooperative. The proper permit applications have now been filed and the permits have been issued today.

MOTION BY MR. KLEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND THE CONTRACTOR IS GIVEN UNTIL DECEMBER 19, 2006 TO COMPLETE THE PROJECT AND OBTAIN ALL FINAL INSPECTIONS. IF THE INSPECTIONS ARE NOT COMPLETED BY DECEMBER 19, 2006, THE CODE ENFORCEMENT BOARD WILL CONSIDER FINES AT THE DECEMBER 21, 2006 CODE ENFORCEMENT BOARD HEARING.

MOTION SECONDED MR. FRIED.

Ms. Greenberg advised the Board that she is a resident of this building but is not on the Board. After consulting with Town Attorney Skip Randolph, it was determined that she had no conflict of interest and could vote on this matter.

MOTION CARRIED UNANIMOUSLY.

D Case #06-2049, 1742 So. Ocean Blvd., Gunther E. Lehmann

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, gates and fences situated on the property shall be kept in a good state of repair.

Chief Walton advised that although the facts of this case and Case #06-2050 are the same, separate motions would be required. Chief Walton reminded the Board that both of these cases were postponed at the November Code Enforcement Board Hearing, giving both parties thirty days to resolve the ownership issue of this wall. The wall is on both properties. Chief Walton recommended that both parties be found in non compliance, be ordered to pay costs in the amount of \$150.00 each and that they be granted sixty (60) days to come into compliance.

Maura Ziska, Attorney for Norman Travers testified that after doing some research and finding plans for the Lehman property, these plans were given to a Craig Wallace, the surveyor for Mr. Travers, who has determined that the wall belongs to the property to the north. The wall was shown on the north property plans. A written opinion from Craig Wallace, addressed to Ms. Ziska, was read into the record by Chief Walton, indicating that the northerly wall was constructed by the previous owner of 1742 So. Ocean Blvd., some portions of the wall do straddle the property line and is leaning toward 1744. After further discussion, the following motion was made:

MOTION BY MR. KLEIN THAT THE DEFENDANT IN CASE #05-2049 IS FOUND IN NON COMPLIANCE AND ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00. THE DEFENDANT MUST REPAIR THE PORTION OF THE WALL ON THEIR PROPERTY BY PAINTING AND PATCHING AND MUST PROVIDE AN ENGINEERS REPORT WITHIN SIXTY (60) DAYS.

MOTION SECONDED BY MR. FRIED.

MOTION CARRIED UNANIMOUSLY.

E Case #06-2050, 1744 So. Ocean Blvd., Norman Travers

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, gates and fences situated on the property shall be kept in a good state of repair.

The facts in this case were heard together with Case #06-2049.

MOTION BY MS. GREENBERG THAT THE DEFENDANT IN CASE #05-2050 IS FOUND IN NON COMPLIANCE AND ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00. THE DEFENDANT MUST REPAIR THE PORTION OF THE WALL ON THEIR PROPERTY BY PAINTING AND PATCHING AND MUST PROVIDE AN ENGINEERS REPORT WITHIN SIXTY (60) DAYS.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED UNANIMOUSLY.

F Case #06-2052, 13 Via Vizcaya, 13 Via Vizcaya LLC, Malasky Homes Inc.

Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, Medium Projects, of the Town of Palm Beach Code of Ordinances: all new or remodel construction projects of 4,000 sq. ft. to 8,999 sq. ft under roof be allowed 22 months.

Chief Code Compliance Officer Walton reported the facts of the case. This project is now at 27 months. There was a one month extension granted after the hurricanes so this project is now four months overdue.

Bruce Malasky of Malasky Homes testified to the board the impact suffered after the hurricanes. A completion schedule, prepared by Mr. Malasky and Neil Kaplan, was distributed to the Board which indicated a completion date and CO date of February 15, 2007.

Chief Walton recommended that the Board accept this schedule and if the schedule is not met, fines could begin today.

Veronica Close, Director of Planning, Zoning & Building Department, stated that the Department wants to tighten up and make sure that contractors abide by these time lines and in the future, would recommend that the Code Board institute a fine as soon as possible, regardless of accepting a schedule in these cases to further encourage contractors to conform to the deadlines.

Donald Malasky of Malasky Homes was sworn in and distributed to the Board a picture of another house being built, demonstrating the type of quality product the Malasky Company builds. After further discussion and a recommendation from Mr. Walton, the following motion was made:

MOTION BY MR. KLEIN TO ACCEPT THE COMPLETION SCHEDULE AS SUBMITTED. THE DEFENDANT IS ORDERED TO APPEAR BACK AT THE CODE ENFORCEMENT BOARD IN SIXTY (60) DAYS WITH A PROGRESS REPORT. IF COMPLETION OF THE PROJECT WITHIN THIS SCHEDULE IS NOT DONE, A FINE, RETROACTIVE TO TODAY'S DATE, WOULD BE CONSIDERED.

MOTION SECONDED BY MR. OCHSTEIN.

Mr. Malasky expressed concerns about delays encountered while dealing with the Public Works Department.

Town Attorney Skip Randolph addressed this matter, advising of the provision in the code which indicates that if a builder feels that they need an extension beyond the time that's allowed in the code, to come to the Town Council for an extension, and if they do not come before the Council for an extension, they will go before the Code Enforcement Board for action.

MOTION CARRIED UNANIMOUSLY.

G Case #06-2053, 2310 So. Ocean Blvd., Craig & Stacey Martone

Violations of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: unsightly, unsafe and unsanitary conditions constitute a nuisance and requires properties be maintained in good condition.

Chief Walton advised the Board that although this violation has been corrected prior to this hearing, it was not corrected within the time frame allowed in the citation. It was his recommendation that this defendant is found in non compliance, ordered to pay administrative costs in the amount of \$150.00, that no further fines be imposed for this violation and this case be closed.

MOTION BY MR. KLEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00, NO FURTHER FINES AND THIS CASE IS CLOSED.

MOTION SECONDED BY MS. DUEMLER.

MOTION CARRIED UNANIMOUSLY.

I Case #06-2054, 261 Nightingale Trail, Ronald & Marlene Jaffe

Violations of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: unsightly, unsafe and unsanitary conditions constitute a nuisance.

Chief Walton reported the facts in this case and read a letter from Mr. Jaffe into the record. The owner intends to repair this property instead of demolishing and building a new house. The pool is being chemically maintained. Chief Walton recommended that the defendant be found in non compliance, ordered to pay costs in the amount of \$150.00, ordered to repair rot

and decay within sixty (60) days and appear at the December 21, 2006 Code Enforcement Board Hearing.

MOTION BY MR. OCHSTEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND IS GRANTED SIXTY (60) DAYS TO COMPLETE THE ROOF REPAIRS, ROTTEN WOOD REPAIRS AND PAINT. THE DEFENDANT IS FURTHER ORDERED TO APPEAR AT THE DECEMBER 21, 2006 CODE ENFORCEMENT BOARD HEARING.

MOTION SECONDED BY MR. KLEIN.

Further discussion took place about the rubbish in front and Chief Walton will address this matter with the owner.

MOTION CARRIED UNANIMOUSLY.

J

Case #06-2055, 242 Tangier Avenue, Tangier Investments LLC

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances: does not allow unsightly, unsafe or unsanitary conditions and requires properties be maintained.

Violation of Chapter 18, Section 242, subsection 104.5.1.6 of the Town of Palm Beach Code of Ordinances: failure of the permit holder to pursue construction under the permit in accordance with the maximum time schedule shall be prima facie evidence that the building project has not been commenced or has been suspended or abandoned.

Chief Walton advised the Board that notice was finally obtained on October 20, 2006. The permit for this project was issued in June 2005. Construction on this project has stopped. There have been no inspections since March 15, 2006. Due to unforeseen costs, the project stopped.

Attorney Maura Ziska, testified on behalf of the owners and stated that these owners have developed approximately eight spec homes on the island. The purchaser backed out of their contract and due to financial issues, construction was halted. The owner's are in the process of securing financing now and would ask for time until after the holidays to do so before commencing construction.

Testimony was heard from several homeowners in the neighborhood who expressed their concern about the condition of the property.

Chief Walton recommended that the defendant be given fifteen (15) days to reactivate the permits with a construction schedule attached to complete the project within the allowable time limit under the building code. Or, within fifteen (15) days apply for a demolition permit and call for a demolition final inspection within forty-five (45) days. After further discussion, the following motion was made:

MOTION BY MR. OCHSTEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE AND ORDERED TO PAY ADMINISTRATIVE FEES IN THE AMOUNT OF \$150.00. THE DEFENDANT IS ORDERED TO REACTIVATE THE PERMITS WITHIN FIFTEEN (15) DAYS WITH A CONSTRUCTION SCHEDULE ATTACHED AND COMMENCE MEANINGFUL WORK IMMEDIATELY, OR WITHIN FIFTEEN (15) DAYS, THE DEFENDANT MUST APPLY FOR AND OBTAIN A DEMOLITION PERMIT AND CALL FOR A FINAL DEMOLITION INSPECTION WITHIN FORTY-FIVE (45) DAYS. A RETROACTIVE FINE WILL BE IMPOSED SHOULD COMPLIANCE NOT BE MET.

MOTION SECONDED BY MR. FRIED.

MOTION CARRIED UNANIMOUSLY.

K

Case #06-2056, 575 Island Drive, 575 Island Drive Trust

Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: does not allow unsightly, unsafe or unsanitary conditions are unlawful and constitute a nuisance.

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, Florida Building Code 424.2.17.1: requires approved barrier and access gates at least forty

eight inches in height with self closing and latching devices for all outdoor swimming pool gates.

Chief Walton reported that this property was posted and that the pool is now being maintained.

Maura Ziska testified that permit applications for demolition and a new house have been submitted and the contractor is waiting for the permit to commence work.

Neighbor Sally Asche testified that this house has been vacant for one year. She has paid \$2200.00 for landscape care of the hedges. Roof tiles from this property have landed in her pool. Nothing has been done here for a longtime.

Chief Walton recommended that the defendant be found in non compliance, ordered to pay administrative fees in the amount of \$150.00 and given seven (7) days to complete the repairs. A repair permit could be issued quickly for the repair of the roof and columns out front and the property be continued to be maintained. Demolition approval was granted 12 months ago but a permit application was never submitted.

Maura Ziska testified that Wittman Builders simultaneously submitted a demolition permit application and building permit application two weeks ago.

Town of Palm Beach Plan Reviewer Jeff Taylor, was sworn in and testified that the usual turnaround time for a building permit is about three to five weeks. A sole demolition permit is handled by the Acting Building Official, Harry Ackerman. A building permit requires zoning review and building review. After further discussion, the following motion was made:

**MOTION BY MR. OCHSTEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND IS GRANTED SEVEN (7) DAYS FROM TODAY TO COMPLETE THE REPAIRS OR DEMOLISH THE PROPERTY.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED UNANIMOUSLY.**

L Case #06-2057, 357 Seabreeze Ave., First Palm Beach Prop Inc.
Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: does not allow unsightly, unsafe or unsanitary conditions are unlawful and constitute a nuisance.

Violation of Chapter 18, Section 18-242, 104.5, small projects of 3,999 sq. ft. or less under roof must be completed within thirteen (13) months of the permit issued date.

Chief Walton testified that the permit to remodel this property was issued in July 2005. The project is now two months overdue and the property is in disrepair.

Jim Ryan, representing the new property owner, stated that the property was purchased on August 15, 2006 subject to a life estate or life tenancy of Mr. Gardener. The property has been in disrepair for some time.

Paul Riley of Dosdourian Enterprises Inc., reported to the Board that over the past two years funding has been the only issue in regards to the completion of this project. Mr. Gardener and Sam Dosdourian have known each other for thirty years and Mr. Dosdourian suggested that Mr. Gardener obtain a public adjuster to represent him to his insurance company. Dosdourian has hired an engineer to prepare a set of plans for the permit process and submitted the plans with application yesterday. Mr. Riley stated that five months would be required to complete the project which includes the replacement of windows.

After further discussion, the following recommendation was made by Chief Walton: the defendant be found in non compliance, ordered to pay administrative fees in the amount of \$150.00, that they apply for and obtain a permit and appear at the December 21, 2006 Code

Enforcement Board Hearing to provide a detailed schedule and for consideration of a daily fine.

**MOTION BY MR. KLEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00, ORDERED TO APPLY FOR AND OBTAIN THE PERMIT AND APPEAR AT THE DECEMBER 21, 2006 CODE ENFORCEMENT BOARD HEARING TO PROVIDE A WRITTEN SCHEDULE TO THE BOARD AND FOR CONSIDERATION OF FINES.
MOTION SECONDED BY FRIED.
MOTION CARRIED UNANIMOUSLY.**

- M Case #06-2058, 3475 S Ocean Blvd., #305, James Basi
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code 2001, Section 104: building permits are required to erect, install, enlarge, alter, repair or remove a building or structure.

Chief Walton testified that work was done without a permit and that a permit has since been applied for.

Mr. Basi testified that all permits, with the exception of the electrical permit, have been applied for.

Mr. Walton recommended a finding of non compliance, that costs in the amount of \$150.00 be assessed and the defendant be granted five (5) weeks to complete the project.

**MOTION BY MR. KLEIN TO MOVE THE TOWN'S RECOMMENDATION.
MOTION SECONDED BY MR. RAFFO.
MOTION CARRIED UNANIMOUSLY.**

- N Case #06-2059, 266 Atlantic Ave., Sandra Kaupe
Violation of Chapter 42, Section 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: does not allow unsanitary, unsafe or unsightly conditions and requires properties be maintained in good condition.

Chief Walton testified that this roof was damaged in the hurricanes and that Ms. Kaupe has hired a contractor, Rewis Roofing. Work has begun to correct the violation and the roofing is expected to be completed within fourteen (14) days. Also, there is a landscaped area between the sidewalk and the house that needs some improved landscaping.

**MOTION BY MR. KLEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00 AND IS GRANTED FOURTEEN (14) DAYS TO COMPLETE THE REQUIRED REPAIRS AND LANDSCAPING.
MOTION SECONDED BY MR. FRIED.
MOTION CARRIED UNANIMOUSLY.**

VI New Business:

None

VII Old Business:

- A Case #06-2014, 314 Dunbar Road, Burton & Marilyn Sultan
Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances: It shall be considered a nuisance for any property owner in the Town to allow dead or dying trees to remain on their property.

Chief Walton reported to the Board that at a previous hearing, the Board found the defendant in non compliance of Town ordinances and ordered that they pay administrative fees in the amount of \$150.00. The property had been posted, and the tree was cut down prior to the hearing date, but not within the allowable time frame allowed by the code officer. A letter from Mr. Sultan was read into the record requesting the fees be abated.

After discussion, the following motion was made:

MOTION BY MR. KLEIN THAT THE FINE NOT BE ABATED.

MOTION SECONDED BY MS. DUEMLER.

MOTION CARRIED UNANIMOUSLY.

VIII Reports:

- A Case #06-1957, 143 Clarendon Ave., Elias Mgmt & Const, Inc./Robert C. Echele
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, Medium Projects, all new or remodel construction projects of 4,000 sq. ft. to 8,999 sq. ft. under roof be allowed 20 months.

Mr. Walton reported that this project is ahead of schedule as they are calling for their final inspections now. This is a report only, no action required.

- B Case #06-2003, 2295 So. Ocean Blvd., Harbour House of Palm Beach
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, doors and windows shall be reasonably free of cracks, painted and shall be kept in sound condition and good repair.

A report was heard from Mr. Walton that repairs are progressing. This is a report only and no action is required.

IX Comments:

Comments were heard by Ms. Greenberg regarding a distinction between single family and multi family dwellings and permits being obtained and how code violations in a multifamily dwelling can affect and endanger more lives.

Veronica Close, Director of Planning, Zoning & Building Department expressed the necessity of working with the condominium managers and contractors on education that may alleviate some of these types of code violations. At the November Town Council meeting, staff was asked to look for ways to reinforce the Town's concerns about the length of time to complete construction projects and also building without permits. Ms. Close introduced Major Gary Sallenbach and Nickie Altomaro of the Police Department and advised the Board that Chief Reiter would address the Board at some future date regarding the Code Enforcement Department transition.

- X **Adjournment:** The meeting was adjourned at 4:15pm without benefit of a motion.

Minutes corrected 1/16/07. DM