

Minutes of the Code Enforcement Board
Town of Palm Beach

THURSDAY, JULY 16, 2009, 2:00 p.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be “abbreviated” in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town’s website at www.townofpalmbeach.com or may obtain an audio recording (tape or CD) of the meeting by contacting Raychel Houston, Secretary to the Code Enforcement Board at (561) 227-6386. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. Call to Order: (2:00:33 p.m.)

The meeting was called to order at the EOC at 2:00 p.m. by Chairman Timothy Hoffman. *(Mr. Hoffman acknowledged the presence of Council Member William Diamond in the audience.)*

II. Roll Call: (2:01:02 p.m.)

Upon roll call, the following Board members were present: Chairman Timothy Hoffman, Vice Chairman Harris S. Fried, Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren and alternate members James M. Ballentine, Jr. and W. Anthony Dowell

Member Joel Koeppel was absent (excused).

Staff present: Town Counsel Matthew Ramenda, Code Enforcement Manager Sgt. Curtis Krauel, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer Nick Gerry and Recording Secretary Raychel Houston

(Mr. Hoffman welcomed Mr. Dowell to the Board and also advised that Mr. Ballentine and Mr. Dowell would be voting members today.)

III. Approval of the Minutes of June 18, 2009: (2:01:34 p.m.)

**MOTION BY MR. OCHSTEIN FOR APPROVAL OF THE JUNE 18, 2009 MINUTES
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to all persons who wish to testify: (2:01:50 p.m.)

All persons wishing to testify were sworn in at this time by Recording Secretary Raychel Houston.

V. **Public Hearings:**

A. Case # 09-2642, 445 Brazilian Ave., Rosalind LLC

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions not permitted and appurtenances such as concrete driveways to be maintained in good condition

Code Enforcement Officer Gerry advised this case was postponed from the June meeting. The property owner has started work on the driveway and the Town recommends this case be postponed to August 20, 2009.

MOTION BY MR. FRIED TO POSTPONE THE CASE UNTIL AUGUST 20, 2009

**SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

B. Case # 09-2648, 179 Main St., 177 Main Street LLC

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as sidewalks to be maintained in good condition, landscape to be maintained in good condition

Code Enforcement Officer Gerry said the Town recommends this case be dismissed for compliance.

MOTION BY MR. OCHSTEIN TO DISMISS THE CASE

**SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

C. Case # 09-2649, 184 Sunset Ave., Warren Colnaghi

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, exterior surfaces to be kept painted and in good condition

Code Enforcement Officer Gerry presented the facts of the case and said the property is still not in compliance. The property owner was originally cited in October, 2008 but the property owner submitted a letter, requesting an extension of time until after season because they needed special permits to shut down the road as the work needed to be done along County Road. It would not have been feasible to shut down County Road during season so an extension of time was granted until June but the work has not been done. The Town recommends a

finding of non-compliance, administrative fees in the amount of \$150.00 and to give them until August 17, 2009 to come into compliance.

Ron Schmidt, the General Contractor, was present on behalf of the property owner and said a considerable amount of maintenance had been done on the building. He said the delay was caused because there had been a lack of communication between the property owner and the property manager. The lane closure permits have been issued, the paint is being delivered and the equipment will be there on Monday. Mr. Schmidt said he felt 30 days would be more than adequate to bring the property into compliance.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE HIM UNTIL AUGUST 17, 2009 TO COME INTO COMPLIANCE

**SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

D. [Case # 09-2650, 425 Worth Ave., Villas Inc.](#)

Violation of Chapter 106, Section 106-159 of the Town of Palm Beach Code of Ordinances, a clearance of 8 feet, measured vertically from the edges and extending the full width of all sidewalks and bike trails shall be maintained at all times for the unobstructed passage of pedestrians and others using such sidewalks and bike trails

Lead Code Enforcement Officer Walton presented the facts of the case and said it resulted from a citizen complaint. The property is still not in compliance. Mr. Walton said he has spoken with Brent Colby, the manager of the property and John Schuler, a resident and they told him their landscaper was on vacation and assured him they would bring the property into compliance. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until August 17, 2009 to come into compliance.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL AUGUST 17, 2009 TO COME INTO COMPLIANCE

**SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

E. [Case # 09-2651 248 Park Ave., Gilda E. & G.L. Beane](#)

Violation of Chapter 106, Section 106-159 of the Town of Palm Beach Code of Ordinances, a clearance of 8 feet, measured vertically from the edges and extending the full width of all sidewalks and bike trails shall be maintained at all times for the unobstructed passage of pedestrians and others using such sidewalks

and bike trails and a clearance of 18 feet, measured vertically from the edges of the pavement and extending the full width of all streets and roadways shall be maintained at all times for the unobstructed passage of vehicles; Chapter 42, Section 42-87, appurtenances such as driveways to be maintained in good condition

Lead Code Enforcement Officer Walton advised this case is now in compliance and the Town recommends it be dismissed.

**MOTION BY MS. GREENBERG TO DISMISS THE CASE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

F. [Case # 09-2652, 2283 W. Ibis Isle Road, Lawrences Rule, Jr.](#)

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, exterior walls shall be kept painted and in good repair and interior walls and ceilings shall be structurally sound and Chapter 42, Section 42-86, unsightly, unsafe or unsanitary conditions not permitted and storage of trash and debris on private property prohibited

Lead Code Enforcement Officer Walton presented the facts of the case and said it originated from a citizen's complaint although he had been monitoring the property. Mr. Walton said he met with Mr. Rule, the property owner, approximately a week ago and showed him a letter his contractor had sent to Jeff Taylor, the Building Official, resigning the job. Mr. Rule told him he was not aware his contractor had resigned. This property was a construction site when there was an active permit but now since there is no permit, the property is just in disrepair. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give him until August 17, 2009 to bring the property into compliance.

Mr. Ballentine asked Mr. Walton to be more specific about what the property owner would have to do to comply. Mr. Walton said he either needed to complete the repairs or tear the structure down. However, if the property owner hires a contractor, it becomes an active construction site again and would come under the construction time limits. Mr. Walton said the property owner's intent is to hire another contractor and finish the project. Mr. Fried asked if there were any safety issues and Mr. Walton said he did not feel there was but said he would do a further inspection with a building inspector. Mr. Hoffman asked if the last inspection was more than 6 months ago, would a new permit be needed and would the property owner have to go before ARCOM again. Mr. Walton said a new permit would be needed but he did not know about ARCOM and would ask Mr. Taylor to answer that.

Jeff Taylor, the Town Building Official, said the renovation did not require ARCOM approval because it was a repair to match existing. Mr. Hoffman said

the property owner did go in front of ARCOM because it was a major remodel. Mr. Taylor said if that was the case then the property owner would have to go to ARCOM again because that approval would have expired with the permit.

Mr. Hoffman said he wanted the Board to know that he lives across the street from this property and has been looking at it every day for 6 months and there has been no activity on it. The lawn has been cleaned up and the dumpster in the back removed. Mr. Ballentine asked if the individual was financially able to do the project and Mr. Walton said he did not know but the property owner told him he was speaking to his banker and had every intention of finishing the project.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE FEES IN THE AMOUNT OF \$150.00 AND GIVE HIM UNTIL AUGUST 17, 2009 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

(Mr. Hoffman recognized Council President Pro Tem Gail Coniglio in the audience and said the Board appreciated her presence.)

G. [Case # 09-2653, 456 S. Ocean Blvd., Charley's Crab and BCD Investors LLP](#)

Violation of Chapter 134, Section 134-2179 (f) of the Town of Palm Beach Code of Ordinances, required or supplemental off-street parking shall be effectively screened with hedges which shall extend across the entire building line which separates the parking area from the street except for the access way

Lead Code Enforcement Officer Walton said the property is now in compliance and the Town recommends it be dismissed.

**MOTION BY MS. GREENBERG TO DISMISS THE CASE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

H. [Case # 09-2654, 215 Brazilian Ave., 215 Brazilian Holding LLC](#)

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of ordinances, unsightly, unsafe or unsanitary conditions not permitted and properties to be maintained in good condition

Lead Code Enforcement Officer Walton presented the facts of the case and said the property is now in compliance but it did not come into compliance within the time frame allowed by the Code officer so the Board may still consider the case. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and no further action be taken.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FURTHER ACTION BE TAKEN
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration:

A. [Case # 09-2618, 211 Worth Ave., A.B. Levy Palm Beach and Lendan, Inc.](#)

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, building permits required to install, enlarge, construct, repair or alter any building or structure; Chapter 134, Section 134-1156, joint businesses cannot share space which exceeds the maximum gross leasable area allowed and Chapter 134, Section 134-1157 (b), no existing commercial use which is subject to the 2000 square feet maximum gross leasable area (GLA) regulation may occupy additional space within 1500 feet of the existing licensed business, which distance shall be measured along the public sidewalk, if such new space to be occupied will increase the total gross leasable area (GLA) to more than 2000 square feet without a special exception approval by the Town Council

Lead Code Enforcement Officer Walton gave a brief summary of the case and said it was still not in compliance. Chris Benvenuto, attorney with Gunster-Yoakley was present on behalf of the property owner. He said Jim Norquest, a planner from Gunster-Yoakley, had filed a special exception on behalf of the property owner and it is on the August Town Council agenda. They are confident the special exception will be granted. Mr. Benvenuto said they are requesting continuance until the August 20, 2009 Code Enforcement Board hearing. In response to Mr. Fried's question, Mr. Walton said the Town did not oppose granting an extension to the August 20th hearing.

**MOTION BY MR. FRIED TO GRANT THE VIOLATOR UNTIL AUGUST 20, 2009 TO COMPLY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

B. [Case # 09-2643, 211 Royal Poinciana Way, Vesenaz Holding Corp](#)

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, exterior surfaces to be kept painted and Chapter 134, Section 134-2442, only one sign, not to exceed two square feet, permitted on the property unless the property fronts on more than one street

Lead Code Enforcement Officer Walton gave a summary of the case and said the property was still not in compliance of Chapter 42, Section 42-87 although the sign violation had been rectified. The Town recommends a fine in the amount of

\$100.00 a day be assessed against the property, commencing on July 14, 2009 and continuing until compliance is achieved.

**MOTION BY MS. GREENBERG TO ASSESS THE VIOLATOR A FINE
IN THE AMOUNT OF \$100.00 A DAY, COMMENCING ON JULY 14, 2009
AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

C. [Case # 09-2644, 135 Root Trail, Root Ocean Property LLC](#)

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances to be kept in a good state of repair and Chapter 46, Section 46-66, which adopts NFPA Life Safety Code 2006 and requires electrical components such as wiring to be maintained in a safe manner and in compliance with the National Electrical Code

Lead Code Enforcement Officer Walton said the property is now in compliance but did not comply in the amount of time ordered by the Board. The property was out of compliance for 5 days and because this was a life safety issue, the Town recommends a fine in the amount of \$50.00 a day for the 5 days out of compliance, which would total \$250.00. Mr. Hoffman asked if the hearing costs of \$150.00 were paid and Mr. Walton said they had not been. Mr. Fried asked Mr. Walton if he knew why they were late in complying and Mr. Walton said it seemed like they were slow getting the process going. Mr. Fried asked what the maximum fine a day would be and Mr. Walton said it would be \$250.00. Mr. Fried said that due to the seriousness of the violation, he believed the fine should be \$100.00 a day and would make a motion to that effect.

**MOTION BY MR. FRIED TO ASSESS A FINE IN THE AMOUNT OF
\$100.00 A DAY FOR THE 5 DAYS OUT OF COMPLIANCE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

D. [Case # 09-2646, 179 Main Street, 177 Main Street LLC](#)

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, exterior walls shall be reasonably free of cracks or holes through which weather elements can enter the building or structure, all exterior surfacing material shall be painted and in good repair and roofs to be maintained so as not to leak

(Mr. Hoffman said he wanted to announce he received a letter from Ms. Gordy which he immediately turned over to Staff. He responded to the letter but he did not respond to any of the information in the letter. Mr. Hoffman said he received a phone call from Ms. Gordy yesterday and he explained to her the ethical problems in discussing the case with her. She said she understood and they ended the conversation. Sgt. Krauel asked if there were any other ex parte matters in

the case and he polled the Board. Each of the Board members present said they received a letter from Ms. Gordy but had no other communication with her.)

Lead Code Enforcement Officer Walton said this case was found in non-compliance at the last hearing and they were given until July 13, 2009 to come into compliance. Mr. Walton said he has had several meetings with Rene Alonso, the contractor, Ms. Gordy and the architect, Pat Seagraves. Mr. Walton said the grass has been cut and the property cleaned up but no repairs have been undertaken. The property is in very poor condition and has been a problem for quite some time. The Town recommends a fine of \$150.00 a day, commencing on July 14, 2009 and continuing until compliance is achieved.

Maura Ziska, attorney for the property owner, Diane Gordy, was present along with Ms. Gordy, Mr. Alonso and Mr. Seagraves. Ms. Ziska said they met with Paul Castro this morning and are on the August ARCOM agenda and the September Town Council agenda. Their intention is to get approval from ARCOM and then demolish the back half of the property which would eliminate that eyesore or non-compliance which is the code enforcement issue. Ms. Ziska said they are asking for an extension of time to bring the property into compliance and based on a prior hearing, she believes that may mean when they have an active building permit or construction site which she hopes would be by November.

Mr. Ballentine asked Mr. Walton to give a synopsis of the history of the property and Mr. Walton said the property was first brought to the Town's attention in 2006 and the property owner said it was going to be remodeled, that they were working on a plan and were going to go to Town Council for variances so the Town allowed them to do minimal repairs to bring the house into compliance. The property has been in poor condition for quite some time and has been allowed to continue to deteriorate. Ms. Ziska said this was a complicated project because it is a non-conforming use on a non-conforming property and it not as simple as tearing down what is there because they have to keep 50% of the cubic volume and it has taken that long to get the plans advanced enough to go in front of Town Council.

Ms. Van Buren asked about the condition of the sidewalk and Mr. Walton said a new sidewalk had been installed. Ms. Greenberg said the Board spent a lot of time discussing this property last month and she thought the Town had shown more than ample patience over the past three years and believed the Board should approve the Town's recommendation.

**MOTION BY MS. GREENBERG TO ASSESS A FINE IN THE AMOUNT OF \$150.00 A DAY, COMMENCING ON JULY 14, 2009 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. FRIED**

During discussion on the motion, Mr. Ballentine asked how compliance was going to be defined. Mr. Walton said the repairs could be completed or the violation could be removed by tearing down the house. Mr. Walton said he knew Ms. Ziska would bring up the issue of being in compliance by obtaining a permit. In this instance, because of the condition of the property, he would have to check with counsel to see if just obtaining a permit would be compliant. If a permit was obtained for the whole project, that might be compliance but he would have to talk to counsel about that. Ms. Ziska said her opinion is compliance would be when you get a permit and start construction on the project because at that point, there would be no reason to fix the roof if the house is going to be torn down. She said she would also consult with counsel on that issue. Mr. Hoffman said he would not consider just getting a permit and no construction starting for the next 6 months to be compliance. Mr. Fried said the Board needed to motivate the property owner to get moving and he is sure Ms. Ziska knows there is the possibility of a fine reduction if the Board sees proper action being taken. He would not simply see the issuance of a permit being compliance and would like to see compliance by having the violations fixed. Mr. Ochstein said he thought \$150.00 a day was a very liberal fine.

**MOTION BY MS. GREENBERG TO ASSESS A FINE IN THE AMOUNT OF \$150.00 A DAY, COMMENCING ON JULY 14, 2009 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

VII. Fine Reduction:

A. [Case # 08-2563, 416 Brazilian Ave., James H. Barker](#)

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, buildings or structures in such a dilapidated condition as to be unfit for human habitation prohibited and Chapter 42, Section 42-87, foundations and structural members to provide a firm and substantial support and interior walls and ceilings to be structurally sound

Lead Code Enforcement Officer Walton gave a brief synopsis of the history of the case. Mr. Barker was found in violation at the October 2008 hearing and given until November 14, 2008 to comply. At the November meeting, he was given additional time to comply, until December 18, 2008. At the December 18th meeting, a fine of \$250.00 a day was assessed until compliance was achieved. The property came into compliance on July 9, 2009 and the fine due is \$51, 130.00 which includes the \$150.00 hearing costs. Mr. Walton said the property has been sold and the fine goes with the property.

Maura Ziska said she was present on behalf of both Mr. Barker and Mr. and Mrs. Frisbee who purchased the property. Ms. Ziska said this was a tragedy, an act of God which had nothing to do with Mr. Barker's neglect of the property and he had

no insurance. Ms. Ziska said Mr. Barker lost everything and had no money. He was trying to secure funds to make repairs and also tried to sell the property. She has been involved since that time and there were a couple of offers and deals that fell through. An agreement was finally reached with the Frisbees and they bought the property and it closed two weeks ago. Money was held in escrow to cover this fine. The money is Mr. Barker's and is being held in escrow which was part of the negotiation of the contract. The property went under contract at the same time the Town was going to condemn the property and hire their own demolition contractor so they immediately took over the demolition contractor and had the house down and final within 30 days. She is asking the Board to reduce the fine because she does not think Mr. Barker needs to be punished anymore.

Mr. Hoffman indicated there was a letter provided to the Board and he wanted to give everyone a chance to read it. Mr. Walton said he promised the homeowner he would introduce the letter into evidence as the homeowner could not attend this meeting. Mr. Walton said the adjacent homeowner is in opposition to any fine reduction. Mr. Hoffman asked about a \$20.00 payment he saw on the fine calculation sheet and Mr. Walton said it was a \$20.00 payment Mr. Barker made toward the \$150.00 hearing costs. The Town got the \$20.00 and that was the extent of the payment. Mr. Ochstein asked if the Town had a recommendation and Mr. Walton said the Town typically does not make recommendations at fine reduction hearings. Ms. Ziska said she got the impression when the fine was imposed that they should come back for a fine reduction, that there would be some sympathy from the Board for Mr. Barker.

Mr. Ballentine asked when the fire was and when the fine started. Mr. Walton said the fire was in May 2008 and the fine started in December 2008. Ms. Greenberg asked Ms. Ziska if she was asking for a total reduction of the fine and she replied in the affirmative. Ms. Greenberg also wanted to know the purchase price of the property and Ms. Ziska said it was \$1.5 million. Ms. Greenberg wanted to know who was responsible for the current fine and Mr. Walton said it was the current property owner as the fine goes with the property. Ms. Ziska said legally, the fine does run with the property but because of the way the contract was negotiated, in order to deliver clean title, part of Mr. Barker's proceeds had to be escrowed. Mr. Barker is responsible for the fine. Mr. Dowell asked how much money the Town had expended on this case and Mr. Walton said he did not know but a lot of hours were spent on this case. Mr. Hoffman said he had reviewed this case and was very sympathetic but he also believed it was a tragedy it took so long to get the house demolished. It took 14 months and he was disappointed in the length of time it took as he is sure it was an eyesore to the neighbors. Mr. Hoffman said he is not in favor of any fine reduction. Mr. Ballentine said he had two people who live in the area complain to him about the property, not only that it was an eyesore but they were concerned about the health aspects with the soot and odors. Ms. Van Buren said she also knows several people who live in the area who spoke to her and were very discouraged about the length of time the process was taking.

Mr. Hoffman said he thought the Town was very lucky there was not a hurricane and damage that could have made the Town liable for not taking action sooner.

Mr. Walton said there is no requirement for a motion on this, that if there is no motion, the fine will stand.

**MOTION BY MR. FRIED TO REDUCE THE FINE BY 50%, TO \$25,565.00
MOTION FAILED FOR LACK OF A SECOND**

Mr. Ballentine said he would go along with a fine reduction, more of a token such as \$15,000.

**MOTION BY MR. BALLENTINE TO REDUCE THE FINE BY \$15,000
SECONDED BY MR. FRIED
MOTION OPPOSED**

ROLL CALL VOTE:

MR. BALLENTINE	YES
MR. FRIED	YES
MR. OCHSTEIN	NO
MS. GREENBERG	NO
MS. VAN BUREN	NO
MR. DOWELL	YES
MR. HOFFMAN	NO

MOTION FAILED 4-3

B. [Case # 08-2547, 250 Bradley Place, # 701, Marianne Chopp](#)

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, building permits required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Walton said gave a brief synopsis of the facts of the case and said a fine in the amount of \$50.00 a day was assessed by the Board at the December 2008 hearing. The fine due is \$8,800.00.

Marianne Chopp addressed the Board and said she worked hard to expedite the project. She was granted an extension by her condo to continue work during season. Ms. Chopp said she was hospitalized and during that time, someone in her building complained to the condo board that they wanted the work to stop. The work was stopped until May 1st. Ms. Chopp said she did not have the money to pay the fine. Mr. Walton asked Ms. Chopp if she was asking for a percentage reduction of the fine or for it just to be waived and she said she did not know. Mr. Ochstein asked about the work being stopped by the condo and Ms. Chopp said

she had been granted permission to work during season because there was also work being done in the common areas of the building. Someone in the building complained and because she was in the hospital and not able to defend herself, the condo reneged on their express permission to allow her to work. Mr. Hoffman asked if the work had initially been done without a permit. Ms. Chopp said the work was started without a permit because her contractor never applied for the permit. She paid this contractor \$10,000 and then paid them more money for fines. She did not show up for the September board hearing because she was told everything was okay. She fired this company and hired Phil Johnson who got the permits. Mr. Walton said the project was now completed but the problem was that work had to be stopped during season and this is what took so long. Once season was over, the work was completed with all inspections. Mr. Hoffman asked Mr. Walton what part of the 167 days out of compliance was caused by the project being stopped by the condo not allowing her to work and he said he did not know. Ms. Chopp said it had been at least 90 days.

MOTION BY MS. GREENBERG TO DISMISS THE FINE
SECONDED BY MR. OCHSTEIN
MOTION OPPOSED

During discussion on the motion, Mr. Hoffman said he would be in favor of reducing the fine by the 90 days Ms. Chopp was not permitted to work by her condo. Mr. Ballentine asked Ms. Greenberg or Mr. Ochstein what the logic was in dismissing the fine. Ms. Greenberg said Ms. Chopp hired a contractor and thought the job was properly permitted and then the condo did not permit her to continue to work and her illness exacerbated the situation. Mr. Fried asked about a lien and if it made a difference whether Ms. Chopp paid the fine now or in 5 years. Mr. Walton said there was already a lien in place and in a fine of this magnitude, it would come back to the Board for a possible foreclosure action in the future.

MOTION BY MS. GREENBERG TO DISMISS THE FINE
SECONDED BY MR. OCHSTEIN
MOTION OPPOSED

ROLL CALL VOTE:

MS. GREENBERG	YES
MR. OCHSTEIN	YES
MR. FRIED	NO
MS. VAN BUREN	NO
MR. BALLENTINE	NO
MR. DOWELL	YES
MR. HOFFMAN	NO

MOTION FAILED 4-3

Mr. Hoffman said he was in favor of reducing the fine by half and Mr. Ballentine said he would be happy to make that motion.

**MOTION BY MR. BALLENTINE TO REDUCE THE FINE TO \$4,400.00
SECONDED BY MS. VAN BUREN
MOTION OPPOSED
MOTION PASSED 6-1 WITH MS. GREENBERG DISSENTING**

VIII. Board Comments: (3:19:41 p.m.)

Sgt. Krauel advised the Code Enforcement Board will not be meeting in December due to the renovations at Town Hall and the December Town Council being scheduled in the EOC on December 17th, the day the Code Enforcement Board meets. The Board will reconvene on January 21, 2010. This is in accordance with Florida state statutes which do not require a meeting every month.

Mr. Hoffman congratulated Major Szarszewski on his promotion and recognized Captain Hess who said he was going to be assisting in the Code Enforcement Board presentations as Sgt. Krauel is leaving for an out of state school for the next several months.

Mr. Fried said he was gratified that the Code Enforcement Board seemed to get the best and the brightest from the police department.

IX. Adjournment: (3:21:39 p.m.)

The meeting was adjourned without benefit of motion.