

Minutes of the Code Enforcement Board
Town of Palm Beach

THURSDAY, JUNE 18, 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:(2:01:30 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 Diamond in the audience and thanked him for his continued attendance at the Code Enforcement Board meetings. Mr. Hoffman also recognized Police Chief Blouin who addressed the Board and said his association with the Code Board had been a pleasure and great experience for him, both personally and professionally.

II. Roll Call:(2:02:05 p.m.)

The following Board members were present: Chairman Timothy Hoffman; Vice Chairman Harris S. Fried; Joel P. Koeppe, Catherine M. Deumler, Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren and alternate member James M. Ballentine, Jr.

Alternate member W. Anthony Dowell was absent (excused).

Staff present: Town Counsel Matthew Ramenda, Support Services Captain Daniel Szarszewski, Code Enforcement Manager Sgt. Curtis Krauel, Lead Code Enforcement Officer Robert Walton and Recording Secretary Raychel Houston

III. Approval of the Minutes of May 21, 2009:(2:02:14 p.m.)

**MOTION BY MR. KOEPPPEL FOR APPROVAL OF THE MAY 21, 2009 MINUTES
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to all persons who wish to testify:(2:02:39 p.m.)

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

(Mr. Hoffman announced there would be a change in the agenda as the two cases under item VI. Old Business would be heard prior to V. Public Hearings.)

V. Public Hearings: (2:14:50 p.m.)

A. Case # 09-2634, 156 Peruvian Ave., Yolande Fox

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions not permitted and exterior surfaces to be kept painted and in good repair and Chapter 18, Section 18-242, building permits required to construct, alter, repair, enlarge or demolish any structure or building

Lead Code Enforcement Officer Walton said this case was postponed from the May hearing. He presented the facts of the case and said the Town recommends the Board dismiss the violation of Chapter 42-87 and the violator be found in non-compliance of Chapter 18-242, assessed administrative costs in the amount of \$150.00 and be granted until August 7, 2009 to come into compliance.

Chad Mathis of the Principle Group, the contractor for the homeowner, said the repairs have been delayed because they were waiting for a check from the insurance company. Ms. Fox turned the insurance check over to the mortgage company who has not released the funds yet. Mr. Fried asked if there were any life safety issues and Mr. Walton said there was exposed wiring. Mr. Fried thought the time for compliance should be shortened. Mr. Koeppel asked about the cost of repairs and Mr. Mathis said it was about \$35,000. There was some discussion about permit time issues and Jeff Taylor, the Building Official, said construction time limits are only for major work, in excess of \$250,000. He said the standard permit conditions require work to be started within 90 days of issuance or the permit becomes void. A permit also becomes void if there are no inspections within 6 months. Mr. Koeppel asked if there was a time frame in which the work had to be completed and Mr. Taylor said as long as they successfully completed one inspection every six months, there was not. Mr. Mathis said work had been started but they have not called in for any inspections. Mr. Koeppel asked why work was done without a permit and Mr. Mathis said it was demo work done on an emergency basis because a water heater leaked for about two weeks before the owner was aware of it. Mr. Koeppel said if a permit had been obtained, there would be no time limit so he did not feel it was right to impose one now because the work done without a permit was of an emergency nature. Mr. Koeppel thought the owner should be given 60 days after the bank funded the project or if the bank did not fund within 90 days, the case could come back so they could deal with it. Mr. Mathis said there had been a series of issues,

one being the recent death of Ms. Fox's husband. There was additional discussion by the Board members about the time for compliance and whether the owner could fund the project without waiting for the insurance money. Mr. Mathis said he would like to have at least 3 months to complete the project. Mr. Ochstein and Ms. Greenberg did not feel the Board should concern itself with the financing.

MOTION BY MR. KOEPPPEL TO GRANT FIND THE VIOLATOR UNTIL SEPTEMBER 15, 2009 TO COME INTO COMPLIANCE WITH THE CAVEAT THAT THE BOARD BE NOTICED IF FUNDING IS NOT RECEIVED WITHIN 30 DAYS

SECONDED BY MS. DUEMLER

MOTION OPPOSED

ROLL CALL VOTE:

MR. KOEPPPEL	YES
MS. DUEMLER	YES
MR. FRIED	NO
MR. OCHSTEIN	NO
MS. GREENBERG	NO
MS. VAN BUREN	NO
MR. HOFFMAN	NO

MOTION FAILED 5-2

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS OF \$150.00 AND GRANT THEM UNTIL JULY 13, 2009 TO COME INTO COMPLIANCE
SECONDED BY MS. GREENBERG

During discussion on the motion, Ms. Duemler asked Mr. Fried if he would change his motion to make the compliance date August 7, 2009 and he agreed.

AMENDED MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GRANT THEM UNTIL AUGUST 7, 2009 TO COME INTO COMPLIANCE

SECONDED BY MS. GREENBERG

MOTION OPPOSED

ROLL CALL VOTE:

MR. FRIED	YES
MS. GREENBERG	YES
MR. KOEPPPEL	NO
MR. OCHSTEIN	YES

MS. DUEMLER	YES
MS. VAN BUREN	YES
MR. HOFFMAN	YES

MOTION PASSED 6-1

(Mr. Hoffman acknowledged the presence of Council Member Kleid in the audience.)

B. [Case # 09-2635, 260 Oleander Ave., Casa Fontana Condo Association](#)

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 off-street parking areas to be kept in good repair and spaces marked in accordance with the approved plan

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

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

C. [Case # 09-2639, 277 Royal Poinciana Way, RSVP Pack & Ship](#)

Violation of Chapter 114, Section 114-38 of the Town of Palm Beach Code of Ordinances, storage boxes and shipping outside of store

Lead Code Enforcement Officer Walton presented the facts of the case and said it was postponed from last month. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and a fine in the amount of \$250.00. Ms. Greenberg asked if the Board had heard the same violation previously and Mr. Walton said it had but he had not written the violation as a repeat one. Since he had not done that, the maximum fine is \$250.00. Ms. Van Buren asked if the business was being checked periodically as there had been boxes in front of the store every day for awhile. Mr. Walton said he checks the location on a weekly basis and had not seen another violation.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND A FINE OF \$250.00
MOTION SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

D. [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 allowed and appurtenances such as concrete driveways to be maintained in good condition

Lead Code Enforcement Officer Walton said the Town recommends the case be postponed until the July 16, 2009 hearing.

MOTION BY MR. KOEPEL TO POSTPONE THE CASE UNTIL JULY 16, 2009

SECONDED BY MS. VAN BUREN

MOTION PASSED UNANIMOUSLY

E. [Case # 09-2643, 211 Royal Poinciana Way, Vesenz 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 presented the facts of the case and said the property is now in compliance with Chapter 134-2442 as one of the signs has been removed. The Town recommends a finding of non-compliance of Chapter 42, Section 42-87, administrative costs in the amount of \$150.00 and to grant them until July 13, 2009 to complete all repairs.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE OF CHAPTER 42, SECTION 42-87, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GRANT THEM UNTIL JULY 13, 2009 TO COME INTO COMPLIANCE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

Mr. Kleid asked if the property was going to be in compliance with the new ordinance with respect to store fronts and how they should be decorated. Mr. Walton said the second floor is vacant and should be screened but he had not addressed that. He said if the owner did not comply with the new requirements for screening of vacant buildings, he would be cited.

Mr. Koepfel asked if the prior case (09-2642, 445 Brazilian Ave., Rosalind LLC) was supposed to be found in non-compliance with \$150.00 in costs. Mr. Walton said the case is being postponed, that the Town is not asking for a finding because the property owner has worked diligently on the project and is being granted more time.

F. [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 presented the facts of the case and said the Town recommends a finding of non-compliance, administrative costs of \$150.00 and to grant them until June 26, 2009 to come into compliance.

Eugene Fagan, the property owner, was present and thanked Code Enforcement for bringing this to his attention as it is a very dangerous situation. He said he contacted an electrician immediately and the electrician told him he was filing for the permit. Mr. Fagan said he just found out 2 hours ago the electrician had not completed his permit. Ms. Van Buren asked how much time the repair would take. Mr. Fagan said the electrician said it would take about a day because of the way the wires are run. The building was built in 1928 and there was no electricity at that time. All of the electricity to the building is fastened to the exterior walls. Mr. Taylor said the permit application was received today and should be issued tomorrow. The problem is the wires run over the stairs and that is not permitted any longer so the conduits are going to have to be re-routed.

**MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GRANT THEM UNTIL JUNE 26, 2009 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

G. [Case # 09-2645, 108 El Mirasol, Neeta Khubani](#)

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions and the storage of trash and debris on private property not permitted and Chapter 42, Section 42-87, appurtenances such as irrigation systems to be maintained in working condition

Lead Code Enforcement Officer Walton presented the facts of the case and said the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to grant them until June 30, 2009 to come into compliance.

Maura Ziska addressed the Board and said the property owner was a client of hers and she was not aware they were going to be on the agenda today. She said they had approval at ARCOM and DEP and are in for permit which she believes has been issued to build a house on this property. Ms. Ziska said the owners live in New Jersey and she does not think they have any idea this is going on. Mr. Walton said the Town has a confirmed delivery of the certified mail to the property owner in New Jersey.

MOTION BY MR. KOEPPPEL TO FIND THE PROPERTY OWNER IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL JUNE 30, 2009 TO COMPLY.

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

H. [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 and Chapter 42, Section 42-86, conditions not allowed which provide harborage for vermin

Lead Code Enforcement Officer Walton presented the facts of the case. The bees have been removed but the remainder of the property is not in compliance. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to grant the homeowner until July 13, 2009 to comply.

Maura Ziska said she was present on behalf of the property owner, Diane Gordy, who was with her today. Ms. Ziska said they have been meeting on this project for the last year and a half trying to figure out what to do with the site because there are a lot of non-conforming aspects encroaching into the set backs. They have met with Paul Castro four times, the latest being this past Monday and are hoping to be on the August ARCOM agenda and the September Town Council agenda. Assuming they get approved without any deferrals, they could be in for building permit by November. She believes it will take 14-16 months to finish the construction job.

Diane Gordy advised the Board she has drawings and models but it was a very difficult property. They are going to be reducing the density, from 3 to 2 units. There is an easement situation on the left which is extremely challenging. She said she wishes she had never seen the property.

Ms. Ziska said it did not make sense to patch and put a new roof on if they are going to be under construction within 6 months. They are asking for an extension of time. Mr. Hoffman asked if a permit had been applied for and Ms. Ziska said they cannot apply for the permit until they get variances. Ms. Ziska said they missed the August Town Council agenda as they were not ready but she believes they will be ready for the September one.

Mr. Walton said this property was first inspected back in November, 2006. The property was cited for various violations, rotten wood, paint and broken windows. The Town wanted them to put a new roof on at that time but they got this same story that the property was going to be redeveloped. Mr. Walton said the property continues to be a problem. Ms. Ziska said it does not make any sense to repaint the whole house and fix the roof when they are going in for approvals to do a partial demolition. Mr. Walton said there is no guarantee this project will go

forward. Mr. Ochstein said he saw no choice but to go ahead with the Town's recommendation.

Mr. Diamond said a moratorium was just recently passed on demolitions in the Town. He said demolitions cannot be done from December 15 to February 15 and that has to be taken into consideration. Ms. Van Buren said the sidewalk and any electrical issues should be addressed immediately. Mr. Koeppel asked about the roof and the restructuring plans for the property. Ms. Gordy showed a small model of the proposed site to the Board and Mr. Koeppel said he agreed with Ms. Van Buren about the sidewalk and electrical issues and that the façade should be painted so the building is not an eyesore. Ms. Deumler said this property is at the back entrance of the Breakers where tourists see it and she believes the Board should support the Town's recommendation.

Mr. Fried asked what the Town wanted done and Mr. Walton said the Town wanted everything done, the roof repaired, all rotten wood repaired and to bring the property up to Code. Ms. Deumler said she wanted to make a motion to strongly support the Town's recommendation. Ms. Greenberg agreed, stating that the property needed to be kept to the standards of the Town. Ms. Ziska said it would be impossible to get a permit to get the work done by the Town's date for compliance. Mr. Walton said he would work with the Building Department to get an expedited permit. There was additional discussion reference the amount of time needed.

**MOTION BY MS. DUEMLER TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GRANT THEM UNTIL JULY 13, 2009 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION OPPOSED**

ROLL CALL VOTE:

MS. DUEMLER	YES
MR. OCHSTEIN	YES
MR. FRIED	YES
MR. KOEPPEL	NO
MS. GREENBERG	YES
MS. VAN BUREN	YES
MR. HOFFMAN	YES

MOTION PASSED 6-1

- I. [Case # 09-2647, 155 Hammon Ave., Museum Lifestyle & Fashion History](#)
Violation of Chapter 58, Section 58-76 of the Town of Palm Beach Code of Ordinances, special detail fees not paid

Sgt. Krauel presented the facts of the case and said the Town recommends the case be dismissed as the special detail fees have been paid.

**MOTION BY MR. FRIED TO DISMISS THE CASE
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

VI. Old Business: (2:03:18 p.m.)

A. Case # 08-2471, 240 Park Avenue, Park Avenue Palm Beach LLC

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, properties are to be maintained in good condition and unsightly, unsafe or unsanitary conditions are not permitted and Chapter 42, Section 42-87, all exterior walls to be maintained in good repair and interior walls and ceilings shall be structurally sound

Lead Code Enforcement Officer Walton advised the facts were the same in both of these cases but separate motions would be required on each case. Mr. Walton said the fines on both cases as of June 30, 2009 total \$116,650.00 and \$78,150.00, respectively. The property has been donated to the Town and the Board has been requested to rescind all of the outstanding fines. Mr. Koeppel said he was under the impression the Town had approved this and allocated \$100,000 to improve the property. Mr. Diamond said he was not aware of the fines and asked about the value of the property. Mr. Fried said the property was an eyesore and this was an extremely generous proposition by the owner. Recording Secretary Houston advised the Board that, according to backup provided to Town Council, the property was valued in excess of \$2,000,000.

John C. Dotterer was sworn in and said he was one of the attorneys representing the Charles Ames Trust, the current owner of the property. He said the Trust had only come into ownership of the property within the past two months by way of foreclosure of a mortgage it held on the property. The proposal to donate the property for use as a green space park was approved by the Town Council on May 7, 2009. That approval resulted in a contract being prepared between the Town and the Trust titled a gift agreement. The agreement was executed by Mr. Ames on behalf of his Trust today and ten minutes ago executed by Peter Elwell on behalf of the Town. Mr. Dotterer offered a copy of the contract into the record. Mr. Koeppel asked about the status of the real estate taxes on the property and Mr. Dotterer addressed that issue and said it had been fully treated in the agreement. Mr. Ochstein asked about the costs of demolishing the structure on the property and Mr. Walton said the Town had allocated \$100,000 for that.

**MOTION BY MR. KOEPPEL TO ABATE THE OUTSTANDING FINES
ON THE PROPERTY**

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

B. Case # 08-2534, 240 Park Avenue, Park Avenue Palm Beach LLC

Violation of Chapter 46, Section 46-66 of the Town of Palm Beach Code of Ordinances, adoption of the NFPA 1 and the Florida Fire Prevention Code which requires all fire protection systems to be maintained in service in buildings and Chapter 46, Section 46-71, duties imposed upon occupants of buildings and premises by the fire prevention code are also imposed upon the owners of vacant buildings

**MOTION BY MS. GREENBERG TO ABATE THE OUTSTANDING FINES
ON THE PROPERTY
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

VII. Fine Consideration:(3:31:20 p.m.)

A. Case # 09-2636, 2850 S. Ocean Blvd., # 100, Cathy Whitcomb

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 the property was found in non-compliance at the May hearing. He said he believed permits have been applied for but not issued. The Town recommends a fine in the amount of \$150.00 a day, commencing on June 16, 2009 and continuing until compliance is achieved. Mr. Taylor advised a permit was applied for and should be issued today and hopefully, work would commence.

**MOTION BY MS. GREENBERG TO ASSESS A FINE IN THE AMOUNT
OF \$150.00 A DAY, COMMENCING ON JUNE 16, 2009 AND
CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

VIII. Board Comments:(3:35:02 p.m.)

Jeff Taylor, the Town Building Official told the Board the Barker house at 416 Brazilian Ave. had been demolished. He said the Planning, Zoning and Building Department would like to thank the efforts of the Code Enforcement Board in getting this blemish removed from the Town.

Mr. Hoffman asked if there were any questions about any of the information forwarded to the Board by Recording Secretary Houston reference the attendance policy. Ms. Greenberg said she wanted to express her sadness that Ms. Deumler would be leaving the Board due to the attendance issue. Ms. Deumler said she would miss everyone because she loved serving the Town she grew up in. Mr. Hoffman said attendance for this Board is a little more lenient than other Town boards.

Mr. Kleid addressed the Board and said the Town Council understands the Code Enforcement Board has different rules with respect to attendance and Town Council is in the process of looking at that, with the possibility of changing it to conform with every other Board which cannot have more than two unexcused absences a year. Mr. Hoffman said these are the rules imposed by the State and Mr. Kleid said that was correct. Mr. Hoffman said he hoped the Board would be notified if there was a change.

IX. Adjournment:(3:37:38p.m.)

The meeting was adjourned without benefit of motion.