



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, APRIL 16, 2009 AT THE TOWN COUNCIL CHAMBERS, 360 S. COUNTY ROAD

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

Chairman Hoffman advised that prior to the roll call, he wanted to congratulate Ms. Duemler, Mr. Ochstein and Ms. Van Buren on their re-appointment to the Board and thanked them for the time they spend serving the community.

- II. **Roll Call:**
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| Present: | Timothy Hoffman, Chairman
Harris Fried, Vice Chairman
Joel P. Koepfel, Member
Larry Ochstein, Member
Catherine M. Duemler, Member
Madelyn Greenberg, Member
Cynthia Van Buren, Member
James M. Ballentine, Jr., Alternate |
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Staff:	John C. Randolph, Town Counsel Captain Daniel Szarszewski, Support Services Sgt. Curtis Krauel, Code Enforcement Manager Robert Walton, Lead Code Enforcement Officer Nick Gerry, Code Enforcement Officer Raychel Houston, Recording Secretary
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III. **Election of Officers:**

Mr. Hoffman requested Town Clerk Joanna Cunningham conduct the election of officers for the Board. Ms. Cunningham asked for nominations for Chairman. Ms. Greenberg nominated Mr. Hoffman and the nomination was seconded by both Ms. Duemler and Mr. Ochstein. There were no other nominations for Chairman. Mr. Fried made a motion to elect Mr. Hoffman chairman by acclamation and the motion carried unanimously by voice vote.

Mr. Hoffman opened the floor for nominations for Vice Chairman. Ms. Van Buren nominated Mr. Fried and the nomination was seconded by Ms. Greenberg. There were no other nominations for Vice Chairman and Mr. Fried was elected Vice Chairman by a unanimous voice vote.

IV. Approval of the Minutes of March 19, 2009:

MOTION BY MS. DUEMLER FOR APPROVAL OF THE MARCH 19, 2009 MINUTES

MOTION SECONDED BY MR. KOEPPPEL

MOTION PASSED UNANIMOUSLY

V. Administration of the Oath to all persons who wish to testify:

Let the record show that all persons wishing to testify were sworn in at this time by Recording Secretary Raychel Houston.

VI. Public Hearings:

A. Case # 09-2614, 273 Bahama Lane, James W. Beasley Jr.

Violation of Chapter 134, Section 134-1729 of the Town of Palm Beach Code of Ordinances, a generator is allowed in a side or rear yard provided the generator is set back a minimum of 5 feet from the property line and is screened from the neighboring property owners by a wing wall (three sided wall) at least 4 feet high or the same height as the generator (including the height of the exhaust muffler), whichever is greater

Lead Code Enforcement Officer Robert Walton advised this case had been postponed from the previous month and gave a short synopsis of the facts. Mr. Beasley has been working with Mr. Randolph, the Town Attorney, and they have reached a settlement agreement. Mr. Walton said the Town recommends a finding of non-compliance and the settlement agreement be accepted.

Mr. Randolph said he spoke with Mr. Beasley's attorney, Mr. Royce, yesterday and wanted to postpone the case to find out how much time Mr. Beasley needs to remove the generator. The proposed agreement specified 45 days and he understands that has now been changed to 60 days.

Raymond Royce addressed the Board and said the generator was installed under permit and there was an argument as to whether it had to be moved but Mr. Beasley has agreed to move it and it is now a matter of working out the details. Mr. Royce said it would be in everyone's best interest to postpone the case and get the agreement executed. Mr. Walton said, based on this new information, the Town would support a postponement.

**MOTION BY MR. KOEPPPEL TO POSTPONE THE CASE TO MAY 21, 2009
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

B. Case # 09-2623, 209 Clarke Ave., DLU LLC

Violation of Chapter 134, Section 134-1637 of the Town of Palm Beach Code of Ordinances, no obstruction to vision, other than an existing structure, exceeding 30 inches in height above the established grade of the crown of the public street or road at its highest elevation shall be erected or maintained in order to promote more adequate protection for the safety of children, pedestrians and operators of motor vehicles

Lead Code Enforcement Officer Robert Walton said this case was postponed from the last meeting and the property remains out of compliance. Mr. Walton advised he was informed by Bob Moore, a former Building Official, that when this house was built, approximately 7 years ago, existing non-conformities such as this wall, were allowed to continue. Mr. Walton said he researched the record and could not find this information but Mr. Moore was present to testify to that. The only remaining issue is the trees which are in the vision triangle.

Robert Moore, former director of Planning, Zoning and Building, and the Building Official at the time this house was built addressed the Board. He said that when this house was built, the Town's position was that non-conformities could remain on the property. It was not until later that the policy and zoning ordinance changed to require them to be removed and come into compliance with the Code.

Mr. Fried asked Mr. Walton if there was anything in the record to substantiate this. Mr. Walton said the wall does not show up on any ARCOM approved drawings. Mr. Walton said he also spoke to Mr. Ackerman, the former Assistant Building Official and he concurred with Mr. Moore, that an existing non-conformity was allowed at the time this house was built. Mr. Hoffman said he remembered some discussion at the previous meeting and it seemed these trees may not be a problem. Mr. Walton said the trees are in violation of the ordinance and he is asking the Board to order them removed from the vision triangle. Mr. Walton said the Town recommends the property owner be found in non-compliance, assessed administrative costs in the amount of \$150.00 and the trees be removed from the vision triangle by June 15, 2009.

David Ulrich, the property owner, was present and said he would like to just take out any trees closest to the intersection. There are also plantings along the back of the wall which he would like to maintain for aesthetic purposes. If not, he said he will pull them all out, that it is really up to the Board. Mr. Hoffman said he appreciated Mr. Ulrich helping the Board out with the problem and he is sure they can resolve the issue. Ms. Duemler asked if all the trees have to be removed. She said she had gone by the property and she does not believe they are that big a problem. Mr. Walton said the trees are in violation of the ordinance and need to be removed, at least the ones that are in the vision triangle. Everything in the triangle has to be a maximum of 30 inches except for the non-conforming wall. Mr. Koepfel said he remembered discussing this at last month's meeting and he made the point that these types of trees would not create any kind of an obstacle and he believed Mr. Walton concurred. He noted that Mr. Walton said he was going to check with Public Works and Zoning and

see if they agreed and Mr. Walton said he had not done that. Mr. Koeppel said he thought it was fine to try and comply with ordinances but when the ordinance did not accomplish anything other than going by the book; that is not why the Board is here.

Mr. Koeppel said he does not think the trees are creating any obstacle and to have them removed and to take away some of the aesthetic value of the property is a mistake. Mr. Ulrich said the trees that were originally there blew down during a hurricane so he just replanted what was there and did not add anything. Mr. Koeppel asked Mr. Ulrich if it was a problem for him to remove the trees in the vision triangle. Mr. Ulrich said none of it was really a problem because he did not want to be argumentative with the Board. He said he appreciates living here and appreciates the job the Board does keeping everything pristine. He said he would defer to the Board's judgment as to what they wanted him to do.

Mr. Randolph said he needed to mention the potential for liability. Once having known of the situation, if someone got hurt as a result of the vision triangle being blocked, there would be liability. Mr. Fried asked if these trees obstructed vision to a certain extent and Mr. Walton said they did. He said the Board needed to make the right decision and have the trees removed. Mr. Ochstein said the Town has an ordinance based on safety and the Board needs to go along with whatever it says. Mr. Walton said he wanted the Board to be aware the case originated from a neighbor complaint.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER HIM TO REMOVE THE TREES FROM THE VISION TRIANGLE BY JUNE 15, 2009

SECONDED BY MR. FRIED

MOTION PASSED BY VOICE VOTE WITH MR. KOEPPEL DISSENTING

(Mr. Hoffman acknowledged the presence of Council Member Bill Diamond in the audience and thanked him for his attendance)

- C. Case # 09-2626, 400 Royal Palm Way, CP 400 Royal Palm Way LLC
Violation of Chapter 38, Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, burglar alarm fines not paid

Sgt. Curtis Krauel said the Town recommends this case be postponed to the May 21, 2009 meeting. The case was referred to Code Enforcement by the Finance Department and there were inconsistencies discovered in documentation of the reported alarms. The Town is in communication with the representative for the property and he believes the situation will be resolved by the next meeting.

MOTION BY MR. FRIED TO POSTPONE THE CASE UNTIL MAY 21, 2009
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY

D. Case # 09-2627, 990 Adam Road, Reuben B. Johnson

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 repair

Code Enforcement Officer Nick Gerry presented the facts of the case and said the violation was discovered on routine patrol. Mr. Gerry said the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be ordered to repair/replace the damaged columns and paint them by May 18, 2009.

Reuben Johnson, the property owner, was present and said he wanted to object. He said what the Board saw in the photographs which were presented was clearly a problem which he became aware of in December, 2008. Mr. Johnson said he was going to patch and repair the columns and the destruction seen in the photographs was a result of having to tear them apart to see how bad the deterioration was. Mr. Johnson said Mr. Gerry found the violation after he had already started the process of repair. This is a house built in about 1938 and is a John Volk design Georgian house with 4 columns in front. It is a landmarked house and he has to be very careful what he does to maintain the appearance in the front. To get four columns that matched the four columns on the house was not easy. It took him a long time to find a company that made these columns. He discovered the structural damage to the columns in late December and began the process of figuring out how to fix them. The uplift ties were completely rotted out and had to be replaced. He had to hire a structural engineer who had to return three times as more damage was discovered. Mr. Johnson said he wanted the replacement to be better than the original. There were more delays as his mother died in the middle of the process. He is acting as his own general contractor because he does not feel that general contractors understand the problem and would not devote the same care and attention to it. He ordered 4 columns, 4 bases and 4 capitals from a California company, which was the closest one he could find. They are made of a fiberglass reinforced polymer which is resistant to sea atmosphere, mildew and bugs. They are load bearing columns and the installation is somewhat tricky. He has had a contractor working in his garage for the last two weeks assembling the columns. He said Ofc. Gerry was at his house last week and saw a support on the column but did not know there was construction going on in the garage. He said Ofc. Gerry left him a notice which read, "Hi, came by, work not started, will need to be at code board meeting. Thank you." Mr. Johnson said he had a previous e-mail conversation with Mr. Walton where he told him he was sorry about the situation and was working as fast as he could to complete the job. Mr. Johnson said he e-mailed Mr. Gerry on Monday advising he had received his permit. He told Mr. Gerry the material had been received and the contractor had begun to assemble the columns in the garage. The actual installation should begin before the end of this week and completion is expected in between 7 and 10 working days. He said he believed from a previous conversation with Mr. Gerry that the Town would grant a postponement of the case until the May meeting. Mr. Johnson said he did not receive a reply back although he and Mr. Gerry had

agreed that if work was begun, the case would be postponed until May. Mr. Johnson explained the difficult process of fitting and installing the columns and believes the job will be finished by April 30th. Mr. Johnson said he is not happy to be at the Code Board and does not believe he should be here. He does not believe he should have to pay \$150.00 as he has been working diligently on a difficult problem. He said his house sits 60 feet back on a side street and it is almost impossible to see the damage as there are hedges in front.

Ms. Duemler asked Mr. Johnson if he needed to get permits or go to Landmarks to use a different material than what was originally there. Mr. Reuben said he was replacing the column with a “like” column that looked the same. Mr. Gerry said he was not changing the appearance and if there was an issue, the Building Department would have put a hold on the permit and he would have been referred to Landmarks.

Mr. Ochstein asked if Mr. Johnson was in compliance with what he had been asked to do. Mr. Gerry said he was still in violation because the columns had not been replaced. Mr. Johnson said the columns had been covered so they did not look so bad. Mr. Gerry said he needed to replace the columns, get a final inspection by the Building Department and then he would be in compliance. Mr. Koeppel said based on what Mr. Johnson said, he was in the process of repairing or replacing the columns before the Town found the violation. He said Mr. Johnson should not be found in non-compliance and the case should be postponed until next month to make sure the project is properly completed. Mr. Johnson said he wanted to ask for a waiver of the costs also because he did not think he should have been before the Board. Ms. Greenberg said she agreed with Mr. Koeppel and thought waiting until the project is complete was a good idea. She said she did not believe costs were appropriate.

**MOTION BY MR. FRIED TO POSTPONE THE CASE UNTIL MAY 21, 2009.
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- E. Case # 09-2628, 221 Oleander Ave., Marina G. Petrou
Violation of Chapter 42, Section 42-86 and Section 42-87 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe and unsanitary conditions not permitted and exterior surfaces to be kept painted and in good condition

Code Enforcement Officer Nick Gerry presented the facts of the case and said the violation was discovered on routine patrol. Mr. Gerry said he has spoken with Ms. Petrou and she has done some work on the property since the initial notice issued to her and it does look a lot better. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and for the property to be brought into compliance by May 18, 2009.

Marina G. Petrou, the property owner, was present. She said the property has been

pressure cleaned, including the roof, which was not cited. All of the woodwork and doors have been repaired or painted with the exception of the one door on the side. She bought the building in February of 1973 and it was just cinderblock and paint. In 1988, she did a lot of work on the property. The missing door she was cited for is a problem. She put in a door with louvers and it fell apart in 6 months. She then put in a solid door and that door fell apart as well. The other side of the stairway was the same way and she had it completely blocked with cinder block before she plastered the building. She did not block this side because she thought she might use it for a washer/dryer. The room does have plumbing and electrical but it is not connected. She is never going to get a door that will stay there. She has put in three and they have all fallen apart. Mr. Gerry said Ms. Petro would have to get with the Building Department and submit plans if she wants to install a washer/dryer. Either way, she is going to have to have a door because it is an electrical room and a door is required. Ms. Petro said no regular door could go in the space because of its shape. She said it did not have a door when she bought the building. Mr. Gerry said the Town would be willing to work with her on this issue.

Ms. Petrou said all of the other repairs have been made except the painting and the door. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give her until May 18, 2009 to come into compliance.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE HER UNTIL MAY 18, 2009 TO COMPLY.
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- F. Case # 09-2629, 7 Via Parigi, John Surovek Gallery and Everglades Club, Inc.
Violation of Chapter 114, Section 114-31 and Section 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

(Ms. Duemler advised she was a member of The Everglades Club and asked Mr. Randolph if she should recuse herself. Mr. Randolph said the fact she is a member does not necessarily make her have to recuse herself. He said she could if she thought there might be the appearance of impropriety. Ms. Duemler said she served as Chairman on several committees and would prefer to do so. Mr. Randolph said that the statute relating to conflicts of interest states if you have a special private gain or loss in regard to an issue, you should recuse yourself. All of those words, "special, private and gain or loss" have meaning. There have been opinions which state that just because a person is a member of a club or a large group does not necessarily mean they have a special private gain. If you are a member of the Board of a club, you might have a special private gain but if you are just a member, that does not necessarily mean you have a conflict. Mr. Randolph said if a Board member is uncomfortable about the perception of a conflict because he or she is a member, they can recuse themselves. He said he wanted to state the law and let everyone make up their mind. Mr. Ballentine and Ms. Van Buren both advised they

were also members of the Everglades Club but after hearing Mr. Randolph's explanation, would remain as voting members.

Code Enforcement Officer Nick Gerry presented the facts of the case and said it was referred to Code Enforcement by the Planning, Zoning and Building Department. The business moved into the location without a business tax receipt. The property is owned by the Everglades Club which was also cited. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to close the business or obtain a business tax receipt by April 27, 2009.

Clay Surovek was present, representing his father, John, who he said was out of town. He said it was more of an oversight as they already have a proper business license at the business next door. He said they were hoping to have an extension to possibly explore whether they want to stay in this location as well or close the business. He advised Mr. Lessee from the Everglades Club was also present.

Mr. Fried questioned why The Everglades Club would be a party to this matter and Mr. Gerry said the property owner has to be cited as well as the tenant because any fines go against the property. Mr. Ballentine asked Mr. Gerry what was so complicated about coming into compliance in this case. Mr. Gerry said the business owner would have to get a business tax receipt and meet all zoning requirements. Mr. Ballentine asked Mr. Surovek if his concern was the process he had to go through or the cost for the business tax receipt. Mr. Surovek said initially it was not realizing what needed to be done and now it was getting with The Everglades Club to see what their options might be or if they had any options. Mr. Surovek said they would be happy to comply as it was just an oversight as they did not realize they needed to get an additional license. Ms. Van Buren asked how much additional time they were requesting and he said a couple of weeks. Mr. Lessee asked if they could have until the next meeting.

Mr. Hoffman asked Mr. Gerry if it was a problem to give them until the next meeting and Mr. Gerry said it was up to the Board as to what they wanted to do.

**MOTION BY MR. FRIED TO POSTPONE THE CASE UNTIL MAY 21, 2009
SECONDED BY MR. KOEPPPEL
MOTION PASSED UNANIMOUSLY**

(Mr. Hoffman announced Ms. Duemler would resume as a voting member)

- G. Case # 09-2630, 44 Cocconut Row, # M209, Muller und Sohn Kapital Konsultants LLC and S.M. & Mary E. Mallamo
Violation of Chapter 114, Section 114-31 and Section 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Sgt. Curtis Krauel said the Town recommends this case be postponed until the May

21, 2009.

MOTION BY MS. GREENBERG TO POSTPONE THE CASE UNTIL MAY 21, 2009

SECONDED BY MR. KOEPPPEL

MOTION PASSED UNANIMOUSLY

H. Case # 09-2631, 264 Country Club Road, 264 Country Club LLC

Violation of Chapter 18, Section 18-242 of the Town of Palm Beach Code of Ordinances which adopts the 2004 Florida Building Code, Section 106.5.3, any site in which reconstruction does not commence within 15 days after demolition must be irrigated and sodded and the property maintained so as not to be in an unsightly condition

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said it was the result of a citizen complaint. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be given until May 18, 2009 to come into compliance.

MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND TO GIVE THEM UNTIL MAY 18, 2009 TO COMPLY

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

I. Case # 09-2632, 202 Worth Ave., Christian Dior and Moda Imports Inc.

Violation of Chapter 38, Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, burglar alarm fines not paid

Sgt. Krauel said the Town recommends this case be postponed until May 21, 2009. According to the Finance Department, charges were being assessed to Christian Dior, who leased the tenant space. However, Dior had vacated the premises at the time these alarms were occurring. Finance is working with the property owner, Moda Imports and the alarm company to get it resolved.

MOTION BY MR. KOEPPPEL TO POSTPONE THE CASE UNTIL MAY 21, 2009

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

VII. Fine Consideration:

A. Case # 08-2431, 434 Seaspray Ave., Christopher Kaufman

Violation of Chapter 18, Section 18-242, Subsection 1 (104.1.1) of the Town of Palm Beach Code of Ordinances, building permits required to construct, install, repair or

alter any building or building system

Lead Code Enforcement Officer Robert Walton gave a brief synopsis of the case and said that after many delays and postponements, the property owner was given until April 16, 2009 to obtain permits and get all required inspections. A permit was issued yesterday but a final inspection has not been obtained.

Robert Moore was present to speak on behalf of the property owner. He said Mr. Brindell, the Kaufman's attorney, was not present today because the Kaufmans had complied by obtaining a permit. He said they are missing the architect's certification and the final inspection. The Astroturf has been removed and sod installed. Mr. Hoffman asked if a permit was needed for the removal of the Astroturf and Mr. Moore said it was not but there was a permit required by the Town to put back the grass, called landscaping and hardscaping. Additionally, Marty Gauthier in the Public Works Department did ask for some calculations as ironically, the real grass does not drain as well as the Astroturf did. Mr. Hoffman asked what the Town's recommendation was and Mr. Walton said he was reporting that the property had been brought into compliance with the exception of the final inspection and that is to be expected any day. Technically, the Board could assess a daily fine as the property owner did not get the final inspection by the compliance date. Mr. Koeppel suggested the case just be postponed to next month to make sure everything is complied with. Mr. Walton said if the final inspection is obtained before that time, the case would not be brought back to the Board.

MOTION BY MR. KOEPPEL TO POSTPONE THE CASE UNTIL MAY 21, 2009

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

- B. Case # 09-2618, 211 Worth Avenue, 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 Robert Walton gave a brief synopsis of the case and said the property owner had applied for a permit to put a fire door in but the permit had not been issued.

Albert Levy, the property owner, was present and said he opened his gallery on Worth Ave. in 1989. In 1995, he moved to a much larger location at 240 Worth Ave. and was over the 2000 square feet but was granted a special exception as he was found to be Town serving. The door under discussion has been there for over a decade at least. The previous owner, Vilda De Porro could come and testify to that. He explained that due to a medical issue he could not be at the last Board meeting and is profoundly disappointed the case was not postponed for 30 to 60 days. Mr. Levy said Mr. Batten applied for the permit but it is going to be very expensive to do the work. This comes at a time when business is way, way off. In the 19 years he has been on Worth Ave. he just booked the worst March he has ever had. To go through the construction is going to be a major hardship. He knows what the process is to prove he is Town serving because he was given the special exception for many years. When he opened the store at 240 Worth Ave. in 1995, it was over 2000 square feet. The process is to send your invoices to an accountant and he goes through them to prove you are Town serving. He does not know what the percentage is you have to prove you sell to local but he believes it is 51% and that is an expensive process. He has sent all of his invoices to a CPA to go over to prove that he is Town serving and he plans to apply for the special exception. Mr. Walton said he was confused, that he believed Mr. Levy moved into one half of a store and then expanded into the eastern half of it. Mr. Levy said that was incorrect. He moved into 211 Worth Ave. which is over 2000 square feet because it has an upstairs. Mr. Levy said he had an advertisement in the newspaper and an inspector came in and noticed the doorway. Mr. Walton asked Mr. Levy if he brought his current business tax receipt with him and he said he did not. Mr. Walton asked Mr. Levy if it said on his current business tax receipt he had approval to be over 2000 square feet and Mr. Levy said "absolutely not". He then corrected himself and said it did, that he was grandfathered in but not for the space next door. He is in the process of proving he is Town serving so he can apply for the new license. Mr. Walton asked Mr. Levy if he was requesting additional time to resolve the issue. Mr. Levy said he was and also hoped that if the Town realizes the door has been there, he does not have to go through the expense. Mr. Walton said the Building Official is the one who required the door to be put in. Mr. Walton said he entered Mr. Levy's request for postponement into the record last month but the Town was ready to present the case so they went ahead with it. People were not aware of the circumstances Mr. Levy explained today. Mr. Walton asked Mr. Levy again if he was requesting additional time to prove he is Town serving and get the correct BTR so the door is not required. Mr. Levy said he was asking for time to prove he is Town serving and also asking if he can leave the door the way it is because it has been there for so long. Mr. Walton said the fact the door has been there for some time is not necessarily an approval. Mr. Walton asked Mr. Levy again if he was requesting additional time to resolve the issues in front of the Board today and Mr. Levy said that was correct. Mr. Walton asked Mr. Levy how much time he was requesting. Mr. Levy wanted to know how long it would take to prove he is Town serving. Mr. Walton told Mr. Levy he was found in non-compliance at the last hearing and instead of them talking back and forth, Mr. Levy needed to address the Board. Mr. Walton asked Mr. Levy how much additional time he was requesting and he said 60 days. Mr. Walton said that would be the Board's decision.

Greg Batten of Batten Construction was present and said he applied for a permit to install the door so there will be two separate entities. The wall is a fire wall so you need a fire rated door. If he gets the permit today, he can only work 2 hours a day from 8:00 to 10:00 so it will take awhile. If Mr. Levy is given the time extension and is found to be Town serving, he does not need the door. This door is only necessary when you have two separate entities.

Mr. Fried asked Mr. Walton what Mr. Levy needed to do to come into compliance. Mr. Walton said Mr. Levy was ordered to install the door by April 13, 2009 and did not do that. This is why it he is back in front of the Board. Mr. Levy was not present at last month's hearing and is here today providing information the Town did not have at the prior hearing and is asking for more time. Mr. Fried said he wanted to confirm that Mr. Levy is either going to have to put a fire door in or establish he is Town serving and Mr. Walton said that was correct. Mr. Fried asked if Town Council would be the arbiter of that and Mr. Walton said yes. Mr. Fried questioned how long it would take to get on the Town Council agenda and Mr. Randolph said it would probably take 3 months. Mr. Koepfel said he wanted to clarify that if Mr. Levy gets the approval for Town serving, he does not need the door. Mr. Walton said that may be correct but Mr. Levy would still have to obtain a permit for that opening. Mr. Walton said the Town did not know if the door was legal in that spot or if it was a bearing wall. Someone cut a door in the wall and that is all the Town knows at this point. Some type of permit has to be obtained, either for the opening or for a door to put the fire barrier back. Mr. Randolph confirmed there were two violations, one for installing a door without a permit and the other, as a result of doing that, having a business in excess of 2000 square feet. If they want to continue operating the business, they have to get a special exception from Town Council. Mr. Ochstein said he was going to suggest they postpone the case for 30 days to see what Mr. Levy was going to do. Mr. Koepfel said this was going to take up to 90 days and it is clear Mr. Levy was going to apply to be Town serving, so it does not seem to make sense to bring it back in 30 or 60 days. Mr. Fried wanted to know if there were life safety issues that require action now. Mr. Walton said Mr. Taylor testified to the life safety issues at the last meeting. The wall is a fire wall which has been breached which is why it was suggested that this door be put in. The Town requests that the door be installed. Mr. Fried asked if they could get an estimate from Mr. Batten what it would cost to install the door.

Mr. Batten said he wanted to readdress the life safety issue. He said he was trying to get the permit this morning and the fire marshal was present. He said if this was a life safety issue, the permit could be issued immediately and if it was not, the Town should not be issuing him a permit at all because it is Worth Ave. and you are not allowed to do any work on Worth Ave. unless Town Council approves it or you get approval because it is a life safety issue. Mr. Batten said he did not understand how it could be a life safety issue because if Mr. Levy gets the Town serving exception, the door can be taken out so how could it be life safety. If the Town approves him to exceed 2000 sq. feet, Mr. Levy does not need the door. Mr. Batten said this does not make any sense to him. As far as the cost goes, it is a lot cheaper to do the work if

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he waits until May 1st. It is going to take him 10-14 days to get the door in and about 6 days to install it because he can only work 2 hours a day on Worth Ave. If he can wait until May, he can do the job in 2 days. The cost difference is \$2000 vs. \$1000. Mr. Fried said perhaps Mr. Levy could come back in 30 days to give the Board an update on whether he had any luck getting on the Town Council agenda.

MOTION BY MR. KOEPPEL TO POSTPONE THE CASE FOR 90 DAYS

Mr. Walton asked Mr. Koepfel to amend his motion to grant Mr. Levy an additional 90 days to come into compliance as he has already been found in non-compliance.

MOTION BY MR. KOEPPEL TO GRANT THE VIOLATOR 90 DAYS TO COME INTO COMPLIANCE

SECONDED BY MS. DUEMLER

During discussion on the motion, Mr. Fried asked if Mr. Levy should come back next month and give the Board an update. Mr. Hoffman said he did not feel that would be helpful. There was discussion that 90 days would make the compliance date July 16, 2009 which is the same date of the July hearing. Mr. Koepfel said he would amend his motion to make the compliance date July 13, 2009.

MOTION BY MR. KOEPPEL TO GIVE THE VIOLATOR UNTIL JULY 13, 2009 TO COME INTO COMPLIANCE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

C. Case # 09-2620, 314 Dunbar Road, Marilyn Sultan

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 and all exterior surfacing material shall be kept painted and in good repair and roofs to be maintained so as not to leak and doors kept in sound condition

Lead Code Enforcement Officer Robert Walton said the violator was found in non-compliance at the March hearing and given until April 13, 2009 to comply. Mr. Walton read a letter from Mr. Sultan into the record. The letter advised he was unaware of the violations until a phone conversation with Mr. Walton. Mr. Sultan promised to make the repairs and asked the Board to postpone any fines as the work requested should be completed in the next few days and maybe by the April 16th hearing, weather permitting. Mr. Walton said Mr. Gerry inspected the property today and there is no work going on. The Town recommends a fine of \$75.00 a day, beginning on April 14, 2009 and continuing until compliance is achieved. Mr. Hoffman asked what the date of the letter was and Mr. Walton said it was April 13, 2009.

MOTION BY MR. FRIED TO ASSESS THE VIOLATOR A FINE IN THE AMOUNT OF \$75.00 A DAY, COMMENCING ON APRIL 14, 2009 AND

**CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- D. Case # 09-2621, 233/235 Royal Poinciana Way, Murgan Family Partnership
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, unsightly, unsanitary or unsafe conditions not permitted and exterior walls to be kept painted and appurtenances such as railings and light fixtures to be maintained in good repair

Lead Code Enforcement Officer Robert Walton said this case was heard at the March meeting and the property owner was found in non-compliance and given until April 13, 2009 to comply. Mr. Walton said he met with the property manager, Nydia Centeio who tried to get some of the work done. The work has not been completed and the Town requests a fine in the amount of \$100.00 a day be assessed, commencing on April 14, 2009 and continuing until compliance is achieved.

Nydia Centeio said she did not find out about the issues until the week of March 23rd. The address the Town has for the property owner is not correct and the letters were not being received. She said she met with Mr. Walton on March 27th and went through the items that needed to be repaired. Since then, she has contacted the executor of the estate and received the money for the work this week. The work started yesterday and should be completed by Monday. She said she was asking for an extension.

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

- E. Case # 09-2622, 249 Brazilian Ave., Frank Frankel
Violation of Chapter 54, Section 54-71(a) of the Town of Palm Beach Code of Ordinances, no landmark or any building on a landmark site or within a historic district shall be altered until an application for a certificate of appropriateness has been submitted and approved by the Landmarks Commission

Lead Code Enforcement Officer Robert Walton said the property owner was found in non-compliance at the last meeting and he read the previous Board order into the record. Mr. Walton said he checked with the secretary for the Landmarks Commission and Mr. Frankel has not applied to be heard. The Town requests a fine in the amount of \$250.00 a day commencing on April 14, 2009 and continuing until compliance is achieved. Mr. Hoffman said he remembered Mr. Frankel being present at the last meeting and asked if he had done anything since that time and Mr. Walton said he got one phone call from an attorney trying to find out the facts of the case. Mr. Koeppel asked if compliance would be achieved if Mr. Frankel filed an application and Mr. Walton said that would comply with the first half of the order.

Mr. Walton said as soon as Mr. Frankel files his application, the fine stops running.

**MOTION BY MR. FRIED TO ASSESS A FINE IN THE AMOUNT OF \$250.00
A DAY, COMMENCING ON APRIL 14, 2009 AND CONTINUING UNTIL
COMPLIANCE IS ACHIEVED
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

VIII. Foreclosure Hearing:

- A. Case # 08-2492, 110 Angler Ave., Stephen J. Macari
REPEAT Violation of Chapter 42, Section 42-86 and Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, grass not to exceed 8" in height and exterior surfaces to be kept painted and in good repair

Lead Code Enforcement Officer Robert Walton said this case had been before the Board a number of times and had been postponed. Mr. Macari had requested a fine reduction hearing. Earlier this month, Mr. Macari told him he was giving the property back to the bank and no longer wanted a fine reduction hearing. The fine was \$500.00 a day which started in May, 2008 and ran until July 9, 2008 when the property was brought into compliance. The amount due is \$27, 150 and the lien has been in place for 90 days. The Town requests the Board recommend foreclosure to the Town Council. Mr. Walton said this is a vacant property and is starting to deteriorate again. Mr. Koepfel said he wanted to clarify with Mr. Randolph that this is almost an exercise in futility because if the first mortgage forecloses, it would leave the Town out. He said the Board should act but he did not believe the Town would see any proceeds out of it. Mr. Randolph said code enforcement board liens have a super priority but he believes it will still be "first in time". He said a title search would have to be done. He said the Board could recommend foreclosure but it has to go before the Town Council anyway.

**MOTION BY MR. FRIED TO RECOMMEND TOWN COUNCIL PROCEED
WITH A FORECLOSURE ACTION
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

IX. Board Comments:

Captain Szarszewski addressed the Board in response to Mr. Hoffman's question as to where the next meeting would be held. He said after reviewing many of the options, Staff believed the Emergency Operations Center would be the best choice for the meetings. Captain Szarszewski said the Board could go over and tour the facility after the meeting was

adjourned. Mr. Hoffman asked if parking would be adequate due to the construction and Captain Szarszewski said construction parking would not change but there would be parking access in the 100 block of Australian. There is open parking on the north side of Australian and timed parking on the south side but the Board would not have to worry about any of those issues. Captain Szarszewski said he also believed the east side of Town Hall would remain open for parking as well. Mr. Hoffman asked if it would be disruptive to the meeting if there was an emergency and the fire department had to run out. Captain Szarszewski said the meeting would be on the 3rd floor and it would not be any more disruptive than it is now because the bay doors of the fire station are right outside Town Hall. Mr. Koeppel asked where the access door to the meeting was and Captain Szarszewski said it was directly across the street from the east side Town Hall doors. Mr. Ochstein asked if they would keep the elevator open all day and Captain Szarszewski said yes. Mr. Hoffman asked about the electronics and Captain Szarszewski said Recording Secretary Houston was reviewing the options for call lights. Mr. Hoffman asked how people would be made aware of the new location and Captain Szarszewski said it would be included in the violation notices. Ms. Greenberg asked where the Town Council meetings were going to be and Sgt. Krauel said it was going to be at City Center in West Palm Beach. Mr. Walton said this was the best option that Captain Szarszewski and Sgt. Krauel had worked out because the meeting locations were changing every month and now the Board would be in one spot.

X. **Adjournment:** The meeting was adjourned without benefit of motion.