



# TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



## CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, FEBRUARY 19, 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.

II. **Roll Call:**

|          |                                                                                                                                                                                                                                                                                                         |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Present: | Timothy Hoffman, Chairman<br>Harris Fried, Vice Chairman<br>Joel P. Koeppe, Member<br>Larry Ochstein, Member<br>Catherine M. Duemler, Member<br>Madelyn Greenberg, Member<br>James M. Ballentine, Jr., 1 <sup>st</sup> Alternate                                                                        |
| Absent:  | Cynthia Van Buren, Member ( <i>excused</i> )<br>William P. Vanneck, 2 <sup>nd</sup> Alternate ( <i>excused</i> )                                                                                                                                                                                        |
| Staff:   | John C. Randolph, Town Attorney<br>Captain Dan Szarszewski, Support Services<br>Sgt. Curtis Krauel, Code Enforcement Manager<br>Robert Walton, Lead Code Enforcement Officer<br>Nick Gerry, Code Enforcement Officer<br>Bryant Weymer, Code Enforcement Officer<br>Raychel Houston, Recording Secretary |

*(Mr. Hoffman designated Mr. Ballentine as a voting member in Ms. Van Buren's absence)*

III. **Approval of the Minutes of January 15, 2009:**

**MOTION BY MS. GREENBERG FOR APPROVAL OF THE JANUARY 15, 2009 MINUTES**

**MOTION SECONDED BY MR. KOEPPEL**

**MOTION PASSED UNANIMOUSLY**

**IV. 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.

**V. Public Hearings:**

**A. Case # 09-2606, 151 Chilean Ave., E. Nordin Gilbertson**

Violation of Chapter 42, Section 42-87 of the Town Of Palm Beach Code of Ordinances, outside stairs, porches and appurtenances to be constructed as to be safe and in good repair

Code Enforcement Officer Nick Gerry presented the facts of the case and said the property came into compliance on February 18, 2009. The Town recommends the case be dismissed.

**MOTION BY MR. FRIED TO DISMISS THE CASE**

**SECONDED BY MR. OCHSTEIN**

**MOTION PASSED UNANIMOUSLY**

**B. Case # 09-2607, 210 Orange Grove Road, Ay T. Langdon**

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, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or to install, alter, repair, move, convert or replace any electrical, mechanical or plumbing system

Code Enforcement Officer Nick Gerry presented the facts of the case and said the property owner recently obtained permits and a final inspection. The Town recommends the case be dismissed for compliance.

**MOTION BY MS. GREENBERG TO DISMISS THE CASE**

**SECONDED BY MR. KOEPEL**

**MOTION PASSED UNANIMOUSLY**

**C. Case # 09-2608, 250 Royal Palm Way, NHM Realty LLC**

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

Code Enforcement Officer Nick Gerry presented the facts of the case and said a second floor tenant space was being renovated. The Building Department was contacted and Building Inspector Steve Carew issued a stop work order. Further investigation revealed the property owner never obtained permits. The property owner was cited but to date, no permits have been obtained. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and for the violator to come into compliance by obtaining all building permits and final inspections by March 16, 2009.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL MARCH 16, 2009 TO COMPLY  
SECONDED BY MS. GREENBERG  
MOTION PASSED UNANIMOUSLY**

- D. Case # 09-2609, 229 Sunrise Ave., Champs Elysees French Bakery and Palm Beach Hotel  
Violation of Chapter 114, Section 114-31 and Section 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Code Enforcement Officer Nick Gerry presented the facts of the case and said it was forwarded to Code Enforcement by the Planning, Zoning and Building Department. The business owner was given until February 16, 2009 to obtain a business tax receipt. Mr. Gerry said he has spoken with Merry Francen about the situation. The business has made several attempts to come into compliance but as of today, have not obtained their business tax receipt. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give them until February 27, 2009 to obtain the business tax receipt and pay all late fees.

Merry Francen addressed the Board and said she was an owner as well as the business manager and also acted as a translator for the other owners, who are French and do not speak English. She said they let things go without her being aware of them. Ms. Francen said the owners waited four months to get their visas to operate the business and had to go back to France to do that. They purchased a business they were unable to operate and this caused a financial hardship. She said she has been trying to help them with her own money but she could only go so far with that.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL 2/27/09 TO COMPLY  
SECONDED BY MR. KOEPEL  
MOTION PASSED UNANIMOUSLY**

- E. Case # 09-2610, 1485 Via Manana, T&P Pavers  
Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, construction work outside the proper day/time

Code Enforcement Officer Bryant Weymer presented the facts of the case and said a violation was issued to T & P Pavers and to date, the violation has not been paid. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be ordered to pay the \$250.00 fine.

Mr. Fried asked about the condition of the area being paved and whether it was finished. Mr. Weymer said it appears all of the work has been completed. Mr. Fried asked how the fine would be collected against the paving company. Mr. Weymer said if the company does not pay the fine within a reasonable amount of time, the information will be forwarded to the Building Department and any further permits T&P Pavers try to pull will be denied until the fine is paid. Mr. Ochstein questioned whether Mr. Weymer was asking for an additional \$250.00 fine in addition to the existing fine. Mr. Weymer said that it is only one \$250.00 fine from the Class III violation schedule in addition to the \$150.00 administrative costs for a total of \$400.00. Mr. Hoffman said he recommended a deadline be set for the payment to be made, either 15 days or whatever the Town thought was reasonable. He would suggest 15 days and if it was not paid within that time, any other permits would be denied. Mr. Koepfel asked if interest accrued on the fine if it was not paid. Mr. Weymer said there was no interest accrual at the present time and Mr. Koepfel asked if the Board could impose that. Mr. Randolph said the Board could not impose interest; if interest could be imposed, it would be by statute and would not take any action by the Board.

Mr. Weymer said T&P Pavers was an active contractor in Town and delaying any permits would hold up their business.

**MOTION BY MR. KOEPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE \$250.00 FINE WITHIN 15 DAYS FROM TODAY**

Sgt. Krauel asked what the alternative would be if they did not pay within 15 days. Mr. Hoffman said the Town would not issue them any more permits. Sgt. Krauel said this was already enacted, that they would not be able to obtain any further permits until this fine is paid, regardless of the 15 day stipulation.

**MOTION BY MR. KOEPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE \$250.00 FINE**

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

- F. Case # 09-2611, 389 S. Lake Drive, Florida Choice Contracting Inc.  
Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, construction work outside the proper day/time

Code Enforcement Officer Bryant Weymer presented the facts of the case and said he issued the violation notice to the supervisor on the job and as of today, the fine has not been paid. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be ordered to pay the \$250.00 fine. Mr. Fried asked what the reaction of the person was at the site, whether they just thought they could get away with it or were unaware they were in violation. Mr. Weymer said they were caught a little off guard because the condominium gave them permission to work in the condominium on Saturday, however, that does not give them permission to work against the Town's rules. Mr. Weymer said they were a little confused about the situation but he informed them of the rules. Mr. Fried asked whether the condominium told them they could work on the outside. Weymer said he did not believe the condominium knew the proper rules. Many condominiums do not allow work during season but this company had approval from the condominium to work during season. As long as they were working during the week, it was no problem, however, there is no approval to work on Saturday during season in the Town. They were in compliance with the condominium rules but not with Town rules. Mr. Fried asked if there were exceptions for this rule for emergencies and Mr. Weymer said that is something that would have to go before Town Council and would get approval. This is a large job involving the entire renovation of the exterior and was not of an emergency nature.

Ms. Greenberg said she understood what the Town was doing with the contractor but asked if there also another case involving the condominium approving work on a Saturday. She said she assumed the work was being done for the association and not an individual and Mr. Weymer said that was correct. Ms. Greenberg asked if there was any recourse against the association. Mr. Weymer said he believed it was due to a lack of knowledge but ultimately, it was the responsibility of the contractor doing the work. The contractor is the one who pulled the permits and was in violation. Mr. Weymer said he would also send a copy of the Board order to the condominium to keep them informed. Ms. Greenberg said what confused her is that association managers are supposed to be cognizant of the rules of the Town and she does not understand why the association is not equally responsible. Mr. Weymer said the last time he spoke with Florida Choice Building they felt the same way and thought the association was partly responsible. Mr. Weymer said that perhaps they are going to be sharing the fine and this may be part of the reason it has not been paid yet. He said the contractor and the association would have to get on the same page and make the payment. Ms. Greenberg asked if the Town just goes after the contractor now and not the association. Mr. Weymer said in the case of someone working on a Saturday, he issues the violation to the person doing the work. He said he did follow up with the front desk and let them know their contractor was working in violation of Town rules. Ms. Greenberg asked Mr. Walton if he could answer the question and

Mr. Walton said the contractor broke the rules, not the building. The contractor had a permit for the work and it is incumbent on a contractor to know the rules of the municipality in which they work.

**MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE \$250.00 FINE  
SECONDED BY MS. DUEMLER  
MOTION PASSED UNANIMOUSLY**

- G. Case # 09-2612, 205 Worth Ave., Lendan, Inc.  
Violation of Chapter 134, Section 134-2372 of the Town of Palm Beach Code of Ordinances, permit required for the erection or installation of any sign within the Town and requires that sign to conform to the approval plan

Code Enforcement Officer Bryant Weymer advised this property is no longer in violation and said the Town recommends the case be dismissed for compliance.

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

*(Mr. Hoffman acknowledged the presence of Town Council President Pro-Tem Gail Coniglio and thanked her for her continued presence at the meetings)*

- H. Case # 09-2613, Indian Road Vacant Lot, Jeffrey P. Prudden  
Violation of Chapter 42, Section 42-161 of the Town of Palm Beach Code of Ordinances, it is unlawful to allow particulate materials to remain on property without reasonable precaution to preclude them from trespass on neighboring properties during dry and windy weather and Chapter 42-86, tree stumps, debris and discarded materials or any unsightly conditions not permitted and properties to be maintained in good condition

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said Mr. Prudden has done some of the repairs. There were tree stumps on the property which have been removed. The case originated from neighborhood complaints. Mr. Weymer met with Mr. Prudden in January and spoke with him about the overall appearance of the lot. Complaints continued to be received on the property. Just yesterday, he and Mr. Weymer met with Mr. Prudden at the property and the property was still not in compliance as a stump was left, there was debris on the property, some fence pieces, and sand piled up. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be given until March 16, 2009 to comply.

Jeffrey Prudden was present and said the most recent letter he got from Mr. Walton arrived on February 12<sup>th</sup> and gave him until February 16<sup>th</sup> to comply. That was four days and two of those days were Saturday and Sunday. This was effectively only 2 days to comply with the letter. Mr. Prudden said he could not operate that quickly and he needs more time to remove the signs and take care of the particulate matter. Mr. Hoffman asked Mr. Prudden if there was any reason he could not come into compliance by March 16<sup>th</sup> and Mr. Prudden said there was not.

**MOTION BY MS. GREENBERG TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE HIM UNTIL MARCH 16, 2009 TO COMPLY  
SECONDED BY MR. FRIED  
MOTION PASSED UNANIMOUSLY**

- I. 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 said Mr. Beasley's attorney is in consultation with the Town's attorney and is working towards compliance. The Town recommends the case be postponed to March 19, 2009

**MOTION BY MR. KOEPPPEL TO POSTPONE THIS CASE UNTIL MARCH 19, 2009  
SECONDED BY MS. DUEMLER  
MOTION PASSED UNANIMOUSLY**

- J. Case # 09-2615, 318 Worth Ave., Heritage Carpet & Tile, Inc.  
Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, construction work outside the proper day/time

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said loud noisy work was being done prior to 9:00 a.m. Mr. Walton wrote the contractor a violation notice and had them stop work until 9:00 a.m. The notice was signed by Steve Bastien who was the superintendant on the job. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to order them to pay the \$250.00 fine.

**MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-**

**COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF  
\$150.00 AND ORDER THEM TO PAY THE \$250.00 FINE  
SECONDED BY MR. FRIED  
MOTION PASSED**

**VI. 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 said the Board found the violator in non-compliance at the December 18, 2008 meeting. The case started December 11, 2007 and was in regard to artificial turf installed in Mr. Kaufmann's backyard. The case was postponed several times as Mr. Kaufmann was attempting to get clarification on the Code and/or a variance. Mr. Kaufmann was given until February 16, 2009 to comply but as of this date, the case is not in compliance. The Town recommends a fine of \$100.00 a day be instituted. Mr. Walton said Mr. Kaufmann's attorney was present to speak on his behalf.

Jim Brindell said he was present on behalf of Mr. and Mrs. Kaufmann and also had Bob Moore and Jim Payne, the architect, with him. Mr. Brindell said this was not the normal code violation situation. Mr. Brindell said the case started because Mr. and Mrs. Kaufmann could not grow grass in parts of their backyard. They spent \$73,000 in different efforts to grow grass and when that failed, they went to the option of artificial turf. They spent about \$100,000 on that. A lot of people have been to the property, most of the Council members and some of the P&Z members. Everybody looks at it and says it is beautiful. The Kaufmanns were told it violated the Code, because it was a structure. He is not sure how it is a structure as he was not involved with the case at that time. It is artificial turf laid on top of sand. The issue with the Code is that it has to do with landscaped open space. In any event, the Kaufmanns felt so strongly about it, they decided to propose an amendment to the Code. During that process, the Town wanted to hire a consultant and hired Kimley Horn. The Town asked the Kaufmanns to pay for an independent consultant's study about artificial turf, how it worked and whether it was good or bad. There was also a drainage study done by Dunkelburger which showed that the artificial areas drained 10 times better than the natural places on their ground. The study they had to pay for was \$9839.00. Several months after this effort of going to Planning and Zoning and Council, people were sympathetic with them but they could not see changing the Code. At that point, it was going to go back to ARCOM for some recommendations but Mr. and Mrs. Kaufmann decided they had spent enough money and they would see if Mr. Payne could design a scheme of removal in places that made sense to get them back to the 50% minimum landscaped open space. Mr. Payne has done that and the Planning and Zoning Department has reviewed and approved the plan and agreed

it will meet the 50% requirement if implemented. The stipulation is that it has to go back to ARCOM. Mr. Brindell said he is really not quite sure what ARCOM is going to do. He doubts they are going to say the Kaufmanns cannot put grass down and they are not going to tell them to keep the artificial turf. They are going to go back to ARCOM and there is also a fee involved in that. Mr. Payne filed the application and the case is scheduled for March 25<sup>th</sup>. The administrative costs of \$150.00 assessed by the Board for the last hearing have been paid. The areas that are supposed to be removed are being removed now but they still have to wait until March 25<sup>th</sup> to go to ARCOM. After ARCOM approves it, Mr. Moore says they might need a landscape permit to put the grass back down and also a Public Works right of way permit. These permits should be obtainable within 1-3 days. He estimates that within 10 working days after all of the approvals are obtained, the grass should be in place and the Town should have time to review it and to hopefully conclude that it is satisfactory. He is asking for the Board to give them until April 13<sup>th</sup>. He said he is going to make one more run at Planning and Zoning about the ARCOM issue.

Mr. Koeppel asked if any of the areas covered by the artificial grass are covering any easements. Jim Payne, the architect on the project, said he did not believe so. Mr. Ballentine asked Mr. Walton to explain the violation. Mr. Walton said they were cited for not obtaining a permit. It was determined they needed a drainage permit to install the artificial turf. They had to do a drainage plan and get a permit for it. There is a requirement in the zoning code that 50% of the property has to be landscape which is defined as growing plants. Mr. Ballentine said it was his understanding they did not have the authority to put the grass in. Mr. Walton said they never had the authority to install the artificial turf. They did it under no permit and never attempted to get a permit when they installed it. Mr. Walton said they are leaving the artificial turf but they have to get a drainage permit to do that and they are taking out enough of the artificial turf to meet the zoning requirement that more than 50% of the lot is natural landscaping. Mr. Brindell said they were going to take out about 3500 square feet of the artificial turf and replace it with grass. Public Works asked for a drainage test which Dunkelburger Engineering did and it showed it was 10 times better percolation than natural soil. They were just told the other day there is no necessity now to get a drainage plan approved.

Jeff Taylor, Building Official, said a drainage study was required for anything that might affect drainage and as they did not know what effect the artificial turf may have, they determined a building permit was required to install it. Since it was not natural living material as required by the Zoning Code for 50% of the lot, it became a zoning issue as well. Now, since it is a change in material, from a natural to an artificial material, it becomes an ARCOM issue because it is visible from the street. Mr. Taylor said Mr. Gauthier from Public Works, who handles drainage in the Town, was present if the Board had any questions about the drainage issue. Mr. Brindell said the letter they got from Planning and Zoning said they had to get a drainage permit or approval and they are now being told they do not need that unless something has changed since Tuesday. Mr. Walton said Mr. Taylor, the Building Official, is the one who determines whether a building permit is needed. Mr. Brindell said they had met with Mr. Taylor who told them they did not need a permit

to remove the grass but needed to get the zoning approvals. Mr. Taylor said he has not seen any information on the drainage or anything from Mr. Gauthier about what is needed. Bob Moore said that under normal circumstances, when a change on any property is going forward, there is a review by Public Works about how the drainage will be affected. In this particular case, the study done by Dunkelberger determined the artificial turf drained better than the natural. To comply with Mr. Page's letter, Doug Winter, a local engineer, was hired by the Kaufmanns to look at Mr. Payne's plan and determine what type of drainage would be necessary. After discussions between their drainage engineer and Mr. Gauthier, it was determined the artificial surface drains better. However, they are going back to natural sod so there is no drainage plan needed.

Mr. Hoffman said he wanted to make sure the Board was analyzing this issue correctly. The Board is not here to determine the appropriateness of the artificial turf but just to determine if there is a code violation. Mr. Walton said the property has already been found in non-compliance and the Town is now asking for a fine to be instituted. Mr. Walton said Mr. Brindell is asking for additional time, 10 days after whatever date they get the required approvals. Mr. Brindell said he was asking for a maximum time of April 13<sup>th</sup> to have the grass installed and inspected. Mr. Brindell said this is an unusual case and his clients have spent a lot of money. He said they also did the right thing by trying to approach the policy issue once they were informed there was one. The Kaufmanns spent a lot of money trying to do that and he believes it has been educational for the Town as well.

Mr. Fried said he did not have any trouble with giving additional time but he wanted to be clear on what the issues are and asked Mr. Walton again to explain the violation. Mr. Walton said it was determined that a drainage plan was required for the installation of the artificial turf and then, a zoning issue came up because the artificial turf did not meet Code because more than 50% of the green space was not living green space. They were found in violation of not obtaining a building permit. Mr. Walton said the Town does not object to the request for additional time. Mr. Fried asked why they needed a building permit and Mr. Walton said it was for a drainage plan. Mr. Walton said there is now some discussion now as to whether a drainage plan is required. Mr. Fried asked what the Kaufmanns needed to do to come into compliance. Mr. Walton said they originally needed to obtain a building permit for the drainage plan and they needed to meet the zoning code that requires 50% of the landscaped area to be living plants. Mr. Fried asked Mr. Brindell if he knew what needed to be done to come into compliance. Mr. Brindell said he would make sure they understood as he does not believe the drainage permit is required at this point. Mr. Brindell said they have been told they need to go back to ARCOM although he does not know why. He said he would pursue that again with Mr. Page when he returns. They will get whatever permits they need. Mr. Moore said they are not disputing the original charge of doing this without a permit. They are just asking for some time to comply.

Ms. Duemler suggested all the issues be clarified and the case be postponed until after April 13<sup>th</sup>. Mr. Walton said the Board has already found them in non-

compliance and this is just a fine hearing. The Board either needs to assess a daily fine or give them more time. Ms. Duemler suggested they be given more time. Mr. Ochstein asked why a building permit was needed. Mr. Taylor said a building permit is required for anything that might affect the drainage in Town. At the time the artificial turf was installed, the Town had no idea what the aspects or the properties of this material was, whether it was impervious or allowed percolation. Mr. Taylor said what they should do now is apply for a permit with the drainage plans and if these plans show a permit is not necessary, the Town will indicate there is no permit required. They will still need to meet the zoning codes and the ARCOM requirements that any material change that is visible from a public way be ARCOM approved. The drainage plan has not been resolved because he has not formally seen any resolution on it. Mr. Hoffman advised that all necessary permits must be obtained by April 13<sup>th</sup> if they are granted additional time.

**MOTION BY MR. KOEPPEL TO GRANT THE VIOLATOR ADDITIONAL TIME TO COMPLY, UNTIL APRIL 13, 2009**  
**SECONDED BY MS. DUEMLER**  
**MOTION PASSED UNANIMOUSLY**

- B. Case # 09-2602, 232 Worth Avenue, Kaufman DeSuisse LLC and Palm V Assoc Ltd  
Violation of 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 and Chapter 134, Section 134-2372, permit required for the erection or installation of any sign within the Town

Lead Code Enforcement Officer Robert Walton said the violator was originally found in non-compliance at the January 15, 2009 meeting and they were given until February 19, 2009 to achieve compliance. The signage on the business still does not match what was approved and they still have not obtained a valid business tax receipt in the name of the business they are operating. Mr. Walton said they are in consultation with the town attorney, Mr. Randolph. Mr. Walton said he met with Mr. Kaufmann today and they are very close to working out the issues. The Town recommends they be given additional time to comply, until March 19<sup>th</sup>.

**MOTION BY MR. FRIED TO GRANT THE VIOLATOR ADDITIONAL TIME TO COMPLY, UNTIL MARCH 19, 2009**  
**SECONDED BY MR. KOEPPEL**  
**MOTION PASSED UNANIMOUSLY**

**VII. Fine Reduction:**

- A. Case # 07-2073, 129 Chilean Ave., Robert and Beverly Lowden  
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, roofs to be maintained so as not to leak and kept in a good state of repair

Lead Code Enforcement Robert Walton said the Lowdens were found in non-compliance by the Code Enforcement Board on February 15, 2007 and given until March 13, 2007 to achieve compliance. On March 14, 2007 the Board instituted a \$250.00 a day fine, commencing on March 15<sup>th</sup> and continuing until compliance was achieved. On July 31, 2007, a final inspection was called in and attempted but a ladder was not available. The fine continued to run but the Town believes it should have stopped on the July 31, 2007 date as this was probably the date compliance was achieved although the inspection was not able to be done on that date. A final inspection was conducted on December 3, 2008 and the property was found in full compliance. The fine amount owed is \$35,377.84.

Beverly Lowden said she was also present on behalf of her husband, Robert who was in Boston. She said they believed they were in compliance as of April 11, 2007 but apparently there was some snafu in the Building Department. She said she tried to hire a contractor the day after Hurricane Frances ended and could not find anybody. She then waited until after Jeanne and started calling contractors again but still could not find anybody. She finally got a call back from Pinnacle Roofing who said they were a subsidiary of Florida Roofing, who she was familiar with. The damage to her roof was tiles only; she never had a leaky building. She signed a contract in June, 2005 to have all three buildings done so they would match. She ordered the tiles and was told it would take 6-9 months to get them. She found out in February, 2006 that the tiles had not been ordered. Ms. Lowden said the company was not willing to do the job and told her they would refund her money but they never did. In August or September, she was able to get another company, USA Roofing. She did not quite trust them but she liked them because they said they would work with Citizens and try to get the insurance money she was supposed to get. She signed a contract with USA Roofing on September 22, 2006. The work was already in progress when she got the violation notice from the Town on November 22, 2006. She paid the company in December, they got the permit and started work in January. The under work on the roof was completed in mid February and Mr. Ringle inspected it on the 17<sup>th</sup> and approved it. On February 25<sup>th</sup>, they found out their contractor was in the West Palm Beach County jail for 40 counts of contractor fraud, theft and forgery all over the country. She said she found out the tiles for which she had paid in full were never ordered. She had no contractor and no tiles and the contractor who did the original work was not licensed. She called Mr. Ackerman, who she had dealt with in the past and told Roberta who worked with him about the problem. She said she would speak to Mr. Ackerman about the situation. She called Roberta the next day who told her that due to the extenuating circumstances that Ms. Lowden should call her directly when the job was finished and her file would be marked approved or closed. The job was finished on April 11<sup>th</sup> and she immediately called Roberta. She got the answering machine and left a message. She never received a call back. She

assumed she was in compliance on April 11<sup>th</sup>. Sometime in July, she found a note on her door from Mr. Ringle who said she was in violation of the Code because she had no permit posted and no ladder for an inspection. She responded to him that there was no permit posted or a ladder because they were not doing any work. She then got a letter from Jeff Taylor who said she had to have an inspection. In August, she sent a letter back stating she had done everything the Town told her to do to get her roof approved and she did not think she should have to do it again. That was the last she heard so she just assumed everything was okay. She then got a call from William Kelly from the Palm Beach Daily News telling her she owed the Town \$146,000. This is when she requested a hearing.

Mr. Fried said this was a fine reduction hearing today and she had an earlier hearing where the facts of the case would have been presented. He asked her if she had attended that hearing. Ms. Lowden said she was not aware there was a hearing. Mr. Hoffman said in going through the minutes of that February, 2007 meeting, it was noted she had refused to see Mr. Walton or to give him access to her house. Mr. Walton had to put a notice in the paper. At the February meeting, she was given until March 13, 2007 to come into compliance. The March minutes indicated Ms. Lowden said it was her contractors fault and she wanted to be on the April, 2007 agenda. The April minutes indicate she was not present and was still not in compliance. Mr. Hoffman said he did not have much sympathy for the problems although he did understand what had taken place. He said what concerned him most was she refused service.

Ms. Lowden said she disagreed with Mr. Walton. She said she could assure the Board there was no time in February when he asked to inspect her property. Mr. Hoffman said that is not what the minutes indicate. Ms. Lowden said that was not true, that from November 2006 to November 2008 she did not see or speak to any code enforcement officer except for Sgt. Hess who called her in March to tell her they were having a meeting. She could not go but she put together something Sgt. Hess could present to the Board. She said she was not avoiding meetings and that Mr. Walton did not attempt to contact her. She said it was his word against hers. Mr. Hoffman asked Ms. Lowden if her contractor was present with her today and Ms. Lowden said her contractor was in jail and was going to be there for a long time. Mr. Fried asked if everything was finished now and Ms. Lowden said Sgt. Krauel brought someone with him, another man whose name was Taylor, who did the inspection. Sgt. Krauel said all inspections were completed and everything was fine.

Mr. Hoffman asked for a motion and said if he did not hear a motion, then the fine would remain as it stood. There was no motion and Mr. Hoffman said the fine remained at \$35,377.84. Ms. Lowden asked if she had any right of appeal. Mr. Randolph advised any appeal would be through the Circuit Court.

- B. Case # 08-2492, 110 Angler Ave., Stephen J. Macari  
REPEAT Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, grass not to exceed eight (8") inches in height and Chapter 42,

Section 42-87, exterior surfaces to be kept painted and in good repair

Lead Code Enforcement Officer Robert Walton said Mr. Macari was having a medical procedure and requested the case be postponed until March 19, 2009.

**MOTION BY MR. FRIED TO POSTPONE THE CASE UNTIL MARCH 19, 2009**

**SECONDED BY MR. KOEPPLE**

**MOTION PASSED UNANIMOUSLY**

**VIII. Board Comments:**

Captain Szarszewski addressed the Board and told them the Code Enforcement Board meetings have to be relocated because of the Town Hall renovations. Starting in April, the meetings will be held at Temple Emanu-El, 190 N. County Road. Public announcements and releases will be done to inform everyone and the citations and notices will be changed to reflect the new location. Captain Szarszewski said he believed this would continue through June, 2010. He also announced the code enforcement unit is losing Bryant Weymer, who is going to be starting the Police Academy on Monday. Code Enforcement Officer Weymer has done a great job which the Captain said he is sure the Board is aware of and he knows Officer Weymer is going to do an outstanding job as a police officer as well. Mr. Hoffman asked if there were plans to replace Mr. Weymer and Capt. Szarszewski said we have an advertisement and will start taking applications.

Mr. Ballentine asked about political posters on people's lawns. He said the Town just went through a campaign where there were a number of posters and placards on people's lawns. It has been his observation and from a lot of hearsay that the residents of the town do not have a good understanding of what they are allowed to do. He said he was aware of more than one dispute over the signs. He said he did not want to dwell on the disputes but was just asking how residents of the Town understand what the Code requirements are for the placement of those placards. Capt. Szarszewski said a press release was done through the Town Manager's office as well as on the police web site, announcing the ordinance and the rules. He also requested the code enforcement officers contact each candidate and/or their campaign managers and explain the rules and provide them with a copy of the ordinance. The Code is relatively simple; you are allowed one sign per street frontage. If you live on a corner lot, you can have two signs on your property as long as they face on only one street. The signs have to be 2 x 2 feet, not more than 4 square foot in area and no signs are allowed on the public right of way. The agenda was a little light this month because the majority of Code Enforcement's time was spent on the political sign issue. The code officers met with homeowners, removed signs that were right by the roadway and took them up to people's doors with a copy of the ordinance, indicating the violation. Signs in the public right of way were seized and contact was made with the candidates or campaign managers to tell them they could come by the police department and pick up their signs. Mr. Ballentine

said it sounded simple but he did not believe the residents of the Town understand what the Code is and asked if there was a better way to do it such as having the Daily News do a public service announcement. Mr. Ballentine wanted to know if contact could be made with the Civic Association and the Citizens Association to have the information included in their bulletins. Capt. Szarszewski said he could contact the civic associations but he believed the information had been in the Shiny Sheet. Mr. Ballentine said, based on his observations, the information was not getting out there and there should be some way to make sure residents understand the rules before the actual campaign when they put the signs on their property. Capt. Szarszewski said he was open to any suggestions. Mr. Hoffman said he hoped we did not have the problem for another two years. Mr. Ballentine said we have two years to think about how to get the word out to the citizens.

Ann Heap approached the podium and asked if she could address the Board. She said she has been a resident of Palm Beach for 9 years and lives at 234 Park Ave. Her house is immediately east of the Palm Beach Inn which is an abandoned renovation site since the summer of 2007. She said a little more than a year ago, the Board started fining the property and Mr. Walton has been very helpful in keeping her informed. She said she is living with an intolerable situation. There are broken windows, a half painted building, and a temporary entrance which is way past its shelf life which is separated from the building. There are urban foxes living in the building and she does not know what else is in there. The weeds are about a foot high. Mr. Hoffman told Ms. Heap this was something that needed to be addressed with Mr. Walton. Ms. Heap says she speaks to Mr. Walton regularly but she wanted to make the Board aware of the situation. She said Mr. Walton has brought it to the Board in the past because she has written letters about the property and has been trying to follow up on it for some length of time. This is Palm Beach and even if it was not, it is not a tolerable situation. Beyond the building being an eyesore, which is disturbing, it is also a huge fire hazard. Ms. Heap said there is no fire control in the abandoned building.

Mr. Walton asked Mr. Randolph if he could give an update on the case. Mr. Walton said the property was found in non-compliance and the fines running now are \$500.00 a day. It is also in foreclosure and the lender is getting a judgment and taking possession of the building on the 23<sup>rd</sup> or 25<sup>th</sup> of this month. The lender said he will work with the Town and the neighbors to remedy the situation. He does not know exactly what he is going to do with the building. The Town cut the grass and sealed up the building once.

Ms. Heap said the weeds are extremely high and she spoke to the Town's gardening crew who told her they have no responsibility for it. Ms. Heap asked Mr. Walton if there was a clear set of directives for the person who is going to own the building as well as a time frame to bring it into compliance. Mr. Walton said the Town will handle that. Ms. Heap asked if this would be public record and Mr. Walton told her he would keep her informed of every meeting he has with the people taking possession of the property.

Mr. Ochstein said he wanted to readdress the sign issue. He found himself wearing two hats during the last two elections. He is a precinct clerk at St. Edwards Community Hall as well as code enforcement. There was suddenly a new rule that candidates could not put signs in the ground in front of the church so there were people walking around holding signs, creating a big jam up which aggravated the church. He is concerned the Town will lose the church as a polling place and he does not know where they would have the elections. The business of enforcing residential rules on a polling place did not make sense to him. It is a polling place and there should be signs there. The same thing happened at the runoff, although not as bad because there were not as many races. From what he read of the ordinance, polling places are different from residential and commercial. He said he did not get anywhere talking to Mr. Walton so he thought he would bring it up now.

Ms. Greenberg said when someone does not pull a permit, the owner of the property is responsible and wanted to suggest that the property owner should be equally responsible when a contractor works outside of the permitted hours or on the wrong days. She said she would suggest they be penalized as well. The case that came to the Board today put the onus only on the contractor and that seems only half correct to her. She suggested code enforcement look into making both parties responsible. Mr. Hoffman asked if she was asking the Town to also cite the owner of the property or the management company and Ms. Greenberg said that was correct. Mr. Walton said he takes his direction from the Captain. He said the Board's duty is to adjudicate cases that come before it, not to set the policy of the Code Enforcement Unit. Ms. Greenberg said she was not setting policy but was just making a suggestion. Mr. Walton thanked her and said we would take it under consideration.

**IX. Adjournment:**