



# TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



## CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, JANUARY 15, 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 ( <i>arrived at 2:06 p.m.</i> )<br>Larry Ochstein, Member<br>Catherine M. Duemler, Member<br>Madelyn Greenberg, Member<br>Cynthia Van Buren, Member<br>James M. Ballentine, Jr., First Alternate<br>William P. Vanneck, Second Alternate |
| Staff:   | John C. Randolph, Town Attorney<br>Captain Dan Szarszewski, Support Services<br>Sgt. Curtis Krauel, Code Enforcement<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 to be a voting member as Mr. Koeppe was not present for roll call)*

III. **Approval of the Minutes of December 18, 2008:**

**MOTION BY MS. GREENBERG FOR APPROVAL OF THE DECEMBER 18, 2008 MINUTES**  
**MOTION SECONDED BY MR. OCHSTEIN**  
**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 # 09-2597, 2251 W. Ibis Isle Road, Lisa D. Swift**

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, building permits are required to construct, enlarge, alter, repair or change the occupancy of a building or structure or to erect, install, repair or replace any electrical, plumbing or gas system

Code Enforcement Officer Nick Gerry presented the facts of the case and said it was the result of a resident's complaint. Solar panels were installed on the roof with PVP piping running along the side of the home without the required building permit. Mr. Gerry said a representative of the contractor, Advance Pool Heating, was present and they are requesting to go before ARCOM for approval for the solar panels. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and for the violator to obtain ARCOM approval, a building permit and final inspection or remove the solar panels and all piping and parts by February 16, 2009.

Suzanne Beech was present and said she worked for Advance Pool Heating and they are scheduled to go before ARCOM on January 28, 2009. She said they cannot submit their permit until ARCOM approves it. Mr. Fried asked if there was any explanation why they did not apply for permits or seek ARCOM approval before doing the installation. Ms. Beech said there was a previous employee with the company who was told when the job was sold that a permit was needed but it slipped through the cracks and she apologized and said they were trying to correct the problem now. Ms. Beech said they paid the violation fine of \$250.00 and applied to ARCOM. Mr. Hoffman asked if the panels would have to be removed if they did not get approval from ARCOM and Ms. Beech said that was correct. Mr. Hoffman asked why the panels were placed on the street side and not the east side. Ms. Beech said, according to the contractor, they have to be on the street side because of the way the panels sit, the way the sun's rays will hit the panels. If they are placed on the east side, they would have to be raised and it would look like a wind sail. Mr. Hoffman said he hoped ARCOM did not approve it because he lives on Ibis Isle and was going to write a letter to ARCOM to that effect.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL FEBRUARY 16, 2009 TO COME INTO COMPLIANCE BY EITHER GETTING ARCOM APPROVAL, ALL**

**PERMITS AND FINAL INSPECTIONS OR REMOVING THE SOLAR  
PANELS AND PVC PIPING**

**SECONDED BY MS. DUEMLER**

**MOTION PASSED UNANIMOUSLY**

**B. Case # 09-2598, 239 Tangier Ave., Patricia B. Dean**

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, building permits are required to construct, enlarge, alter, repair or change the occupancy of a building or structure

Code Enforcement Officer Nick Gerry presented the facts of the case and said he found Benchmark 3 Construction doing construction work without a building permit. A violation notice was issued to the contractor who paid the fine of \$250.00 for working without a permit. A violation notice was also mailed to the homeowner, requiring them to obtain a building permit and final inspection. A building permit was obtained but no final inspection has been done. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and a final inspection of the door to be completed by February 16, 2009.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-  
COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF  
\$150.00 AND A FINAL INSPECTION TO BE OBTAINED BY FEBRUARY 16,  
2009**

**SECONDED BY MR. OCHSTEIN**

**MOTION PASSED UNANIMOUSLY**

**C. Case # 09-2599, 210 Orange Grove Road, Daniel Chase Development, 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 are required to construct, enlarge, alter, repair or change the occupancy of a building or structure

Code Enforcement Officer Nick Gerry presented the facts of the case and said a violation notice was issued to the contractor who paid the \$250.00 fine for working without a building permit. The Town recommends the Board accept the payment of the fine and no further action be taken. Mr. Fried said he did not understand the Town's recommendation in this case and asked if the Town was satisfied with the contractor just paying a fine. Mr. Gerry said this was part of the citation program established by the Town. The first offense is \$250.00 for working without a permit. Mr. Fried asked what would happen if the contractor did it again. Mr. Gerry said a second offense would be a \$500.00 fine. Mr. Koepfel asked how the two cases just discussed were different. Mr. Gerry said in this case the fine was paid and a permit

obtained. This particular case deals with the contractor. When a contractor is discovered actively engaging in work without a permit, the Building Department is called in and a stop work order issued. A citation is issued to the contractor with a fine of \$250.00 and the contractor is told to obtain a building permit. If a permit is not obtained by the contractor, the property owner is cited. In this case, the contractor paid the \$250.00 fine and obtained a permit. In the previous case, the contractor paid the \$250.00 fine and obtained the building permit but did not get the final inspection.

Mr. Koeppel asked about obtaining a final inspection on this case and Mr. Gerry said there was still a notice of code violation on it which was issued to the property owner. If a final inspection is not obtained on this case, it will be heard at the next Board meeting and it will be the property owner cited, not the contractor. Mr. Koeppel asked if there is a reason both the contractor and the property owner are not cited at the same time. Mr. Gerry said the contractor is given the opportunity to get a permit and if he does not do so, then the property owner is cited. Mr. Koeppel said he was having difficulty distinguishing between the two cases. Mr. Koeppel asked why one of the cases was being found in non-compliance and the other one was not. Mr. Walton asked if Mr. Koeppel was referring to cases B and C and Mr. Koeppel said that was correct. Mr. Walton said case B cited the property owner and would be the second tier of case C where only the contractor has been cited at this point. When a contractor is found doing work without a permit, they are issued a violation notice with a \$250.00 fine which is only half of the case. If the permit is not obtained by that contractor, then the property owner is cited. If the contractor pays the fine and obtains the permit, the case might end there. If the final inspections are obtained, then the case is closed and the Board will not hear the second case because it came into compliance. Mr. Koeppel asked if the contractor got a permit on case B and Mr. Walton said they had but they did not obtain a final inspection within the time allowed by the Code officer. Mr. Walton asked Mr. Randolph if he could talk about that case. Mr. Randolph asked if there was going to possibly be a subsequent case connected to the current one presented at a later time and when Mr. Walton replied in the affirmative, Mr. Randolph said he would rather it be talked about at a later time. Mr. Randolph said this current case is just a step behind the one previously heard. Mr. Randolph said in the Patricia Dean case, he assumed there was a prior case where the contractor paid a \$250.00 fine because he did not get a permit and the second step was to cite the individual. Mr. Randolph said case C was step one in the process and the Board might subsequently see the case where the property owner is cited. Mr. Koeppel said he did not recall seeing the first phase of case B on another agenda. Mr. Walton said the contractor came in and immediately paid the fine and obtained the permit and it never came to the Board. Recording Secretary Houston corrected that statement, advising the contractor on that case, Benchmark 3, was on the previous month's agenda and she believed the Board accepted payment of the fine and no further action in that case, as well.

Mr. Koeppel asked who made the determination as to what is a reasonable period of time to get the work done and Mr. Gerry said it is the code officer. Mr. Gerry said the

code officer also works with the Building Department and gets an idea of how much time it will take to get a permit. Mr. Gerry said enough time is given to get the permit and the final inspections. Mr. Koeppel wanted to know how the amount of time allowed differed in respect to the ordinances relating to time periods based on square footage. Mr. Gerry asked Mr. Koeppel if he was referring to construction time limits and he said he was. Mr. Walton said the time restraints were only for major construction projects which are defined by the Code and said he would be happy to discuss these issues in an open forum at the end of the meeting after the cases on the agenda were addressed.

**MOTION BY MR. FRIED TO ACCEPT PAYMENT OF THE FINE IN THIS CASE AND NO FURTHER ACTION BE TAKEN**  
**SECONDED BY MS. VAN BUREN**  
**MOTION PASSED UNANIMOUSLY**

D. Case # 09-2600, 305 S. County Road, Ben Kennedy

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, building permits are required to construct, enlarge, alter, repair or change the occupancy of a building or structure

Code Enforcement Officer Nick Gerry presented the facts of the case and said the Town recommends the Board accept payment of the fine and no further action be taken.

**MOTION BY MR. OCHSTEIN TO ACCEPT PAYMENT OF THE FINE IN THIS CASE AND NO FURTHER ACTION BE TAKEN**  
**SECONDED BY MS. GREENBERG**  
**MOTION PASSED UNANIMOUSLY**

*(Mr. Hoffman acknowledged the presence of Council President Kleid in the audience and said the Board appreciated his interest in their proceedings)*

E. Case # 09-2601, 2283 W. Ibis Isle Road, William Bell Construction Inc.

Violation of Chapter 42, Section 42-199 of the Town of Palm Beach Code of Ordinances, construction work after hours

Code Enforcement Officer Nick Gerry presented the facts of the case and said a complaint was received from a resident concerning construction parking at 2283 W. Ibis Isle Rd. A police officer responded and discovered Haynes Scaffolding doing

work after hours. A verbal warning was issued by the officer and the case was referred to Code Enforcement for follow up. Code Enforcement then cited the

contractor for work after 5:00 p.m. The contractor paid the fine and the Town recommends the Board accept payment of the fine and no further action be taken.

**MOTION BY MS. GREENBERG TO ACCEPT PAYMENT OF THE FINE IN THIS CASE AND NO FURTHER ACTION BE TAKEN  
SECONDED BY MR. FRIED  
MOTION PASSED UNANIMOUSLY**

F. Case # 09-2602, 232 Worth Avenue, Kaufmann de Suisse 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 presented the facts of the case and said the case originated from the Planning, Zoning and Building Department. An inspection found a business by the name of Kaufmann de Suisse Le Salon operating at 232 Worth Avenue. The first business, Kaufmann de Suisse is located at 210 Worth Avenue. Mr. Kaufmann had previously met with Debby Morakis and Paul Castro of the Building Department about opening a second store. The two stores are within 1500 feet of each other and the two stores combined are over 2000 square feet. The Town has ruled against both of these. After speaking with Mr. Castro and Ms. Morakis, Mr. Kaufmann obtained a business tax receipt to open a store known as Christopher K. To have two separate stores, there must be a different business name and a separate tax ID number on the business tax receipt application. Mr. Kaufmann got the business tax receipt to operate as Christopher K. If he had operated as Christopher K, the Town would not have a problem with that. Because he is operating as Kaufmann de Suisse Le Salon, the Town considers this the same business as the other one. Also, Mr. Kaufmann put up a sign, Kaufmann de Suisse, without a permit. In essence, Mr. Kaufmann is operating a store different than what he is licensed to operate and also put up a sign without a permit.

The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to give the violator until February 16, 2009 to come into compliance. Mr. Walton said he believes Mr. Kaufmann has hired an attorney who is having conversations with Mr. Castro, the Zoning Administrator. Ms. Greenberg asked if Kaufmann de Suisse was a jewelry store and Mr. Walton said both businesses are jewelry stores.

Paul Castro, Zoning Administrator, said there was a Code provision relating to Town serving requirements in the Code. Provisions were placed in the Code to prevent loopholes relative to opening more than one store next to another store exceeding

2000 square feet and getting around the Town serving documentation requirement. The Town put in a requirement that if you were going to have 2 separate stores, they have to be at least 1500 feet apart. In this case, Mr. Kaufmann came in to meet with Debby Morakis who, after consulting with Mr. Castro, told Mr. Kaufmann he could not open up a second store with the same name, that it was too close. Mr. Castro said he thought they had come to a compromise to allow Mr. Kaufmann to operate a separate business under a separate or different name, without the same branding or business identification so close together. Mr. Kaufmann received his business tax receipt and they did not hear from him for quite some time. Staff then noticed he had put his name, his family's name on the jewelry business after he had been advised he could not do that and he did it without a permit.

Mr. Koeppel asked what the requirements would be to come into compliance. Mr. Walton said Mr. Kaufmann has to have a different business name, a different DBA name and a different tax ID number. Mr. Castro said this is not the first time this type of situation has come up and Staff has always felt they have dealt fairly with individual property owners as well as their tenants in terms of complying with the ordinance. In this case, Mr. Kaufmann would have either needed a variance for that 1500 foot separation or changed his name as they advised him to do so it did not appear as two similar businesses operating so close together. Mr. Koeppel asked what name was on the business tax receipt that Mr. Kaufmann got and Mr. Walton said it was Christopher K. Mr. Koeppel asked if Mr. Kaufmann operated under the name Christopher K and used that name on his signage, would he be in compliance and Mr. Walton said he would be, as long as he got a permit for any signage he put up. The illegal sign would have to be removed. Mr. Castro said he met with one of Mr. Kaufmann's representatives this morning and they advised Mr. Kaufmann was operating a separate business at the second location because he had no interest in the other business. However, Staff's investigation of both of the businesses determined that Mr. Kaufmann is an officer in both businesses as registered by the State of Florida and that is a problem.

Ms. Van Buren asked Mr. Walton to clarify the 2000 square feet combined restriction and he said he would defer that question to Mr. Castro because it is in the zoning ordinance. Mr. Castro said the Code has a town serving provision, which is a philosophy that any business that is 2000 square feet or less is a town serving type of establishment in that most of the business that comes into the store is attributed either to people who live in the Town, work in the Town or stay in accommodations when they visit that business. Anything over 2000 square feet is not permitted unless by special exception and there is a provision in the Code that requires that business to come in and provide Town serving documentation that it will either be Town serving, meet that requirement or that it is Town serving in its other establishments or in the way it does business. It is up to the Town Council to make that determination and

only the Town Council can make the determination under those provisions. Ms. Van Buren asked if Mr. Kaufmann had met that requirement and Mr. Castro said when Mr. Kaufmann came in and met with him and received his "branding" name or

fictitious name of Christopher K, it was in an attempt to open a business without going to the Council. Staff was able to sign off on the business tax receipt because he met the three criteria: he had a separate federal tax ID number, he had a separate, different fictitious name and was operating under a different name at that location as a separate business. After he got the business tax receipt, Mr. Kaufmann put up a different business sign which had Kaufmann in its name and this is when it was reported to Code Enforcement. Mr. Castro said after meeting with Mr. Kaufmann's representatives this morning, they investigated further and determined Mr. Kaufmann is an officer in both corporations.

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

- G. Case # 09-2603, 233 Royal Poinciana Way, Murgan Family Partnership  
Violation of Chapter 22, Section 22-57 and Section 22-58 of the Town of Palm Beach Code of Ordinances, windows of vacant buildings or buildings under construction which can be viewed from the public streets to be screened in accordance with Section 22-58 of the Code

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said it originated from a citizen complaint. Although the property is now in compliance, it was not done by the date in the violation letter so Mr. Walton said he is bringing the case to the Board. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and no further action be taken.

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

Mr. Fried said he was seeing all different kinds of screens being put up around Town. He said some are quite nice and some look like they are about to fall down and asked if there was criteria for the screening. Mr. Walton said it is currently under review. There is a task force comprised of the Building Department, Code Enforcement and the business community that is redefining what is going to be allowed. They are discussing historic pictures that will go in all the vacant stores or perhaps a palette of old pictures. Mr. Fried remarked it was a sad commentary on the times, too many screened shops.

*(Mr. Ballentine brought up a point of procedure, stating he had been designated a voting member due to Mr. Koepel not being present for roll call. Mr. Hoffman*

*apologized for not clarifying this and thanked Mr. Ballentine for reminding him. Mr. Hoffman advised that now Mr. Koepfel was present, Mr. Koepfel would be the voting member. Mr. Hoffman also noted that Mr. Koepfel's tardiness would be reflected in the minutes.)*

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

H. Case # 09-2604, 2730 S. Ocean Blvd., Ambassador Hotel Co-op Apartments and Dynamic Construction Services

Violation of Chapter 18, Section 18-205 of the Town of Palm Beach Code of Ordinances, the Architectural Commission may attach conditions to any approval it grants

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said it involved cell towers installed on the Ambassador Hotel. Cell antennas had been installed on the building and were visible from the road. The Building Department required them to go to ARCOM for approval of the cell towers. The cell towers were approved at the September 2008 ARCOM meeting in a separate location with a condition that the cell towers would be screened from view. The stealth wall has now been installed and the final inspection was done today but the paperwork has not been completed and signed off on. The Town recommends a finding of non-compliance and administrative costs in the amount of \$150.00. Mr. Walton said Mr. Schiller from Becker and Poliakoff was present to ask for additional time.

Neil Schiller from Becker and Poliakoff said he represented T-Mobile and the Ambassador Hotel in a dual capacity. He said they agreed with the Town's recommendation but were asking for an additional two weeks to complete the project.

Mr. Ochstein asked if the Town supported granting the additional time and Mr. Walton advised the reason they did not come into compliance by the specified date is because the building requested they stop construction during the Christmas holidays and asked the Board to take that into consideration. Mr. Walton said the antennas had been screened and the Town was in favor of granting additional time. Ms. Duemler said she believed granting additional time was reasonable. Mr. Fried said he also did not have a problem granting additional time and asked Mr. Walton if the stealth wall was going to be what was expected when it got completed. Mr. Walton

said he had seen it and it looked like it was going to be quite screened. Mr. Walton said he spoke to the general superintendant on the job, Gino, and asked if he would work with him if there were any additional problems with the screening and Gino said he would be happy to do that.

Mr. Schiller said they were requesting two additional weeks although he believed the project could be completed by the end of this week. Mr. Walton said he had spoken to the inspector and the project passed final inspection today.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JANUARY 30, 2009 TO COME INTO COMPLIANCE**

**SECONDED BY MS. DUEMLER**

**MOTION PASSED UNANIMOUSLY**

*(Mr. Hoffman acknowledged the presence of Council President Pro Tem Coniglio in the audience and thanked her for her attendance)*

I. Case # 09-2605, 210 Via Tortuga, Alonso Construction

Violation of Chapter 42, Section 42-198 of the Town of Palm Beach Code of Ordinances, construction work before hours

Lead Code Enforcement Officer Robert Walton presented the facts of the case and said the Town recommended a finding of non-compliance, acceptance of the payment of the fine and no further action be taken.

**MOTION BY MS. DUEMLER TO FIND THE VIOLATOR IN NON-COMPLIANCE, ACCEPT PAYMENT OF THE FINE AND NO FURTHER ACTION BE TAKEN**

**SECONDED BY MS. VAN BUREN**

**MOTION PASSED UNANIMOUSLY**

VI. **Fine Consideration:**

A. Case # 08-2582, 141 Australian Ave., Gregory J. Pamel

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 in good repair and roofs shall be maintained so as not to leak

Lead Code Enforcement Officer Robert Walton said this case was heard on November 20, 2008. The homeowner was found in non-compliance and given until December 15, 2008 to comply. Mr. Walton said Dr. Pamel is an absentee landlord

and this is the second contractor he has hired. This contractor has finished all of the work except the roofing work which he had problems getting permits for and is not completed as of today. Mr. Walton said the contractor is on site today. Mr. Walton said the Town is not asking for a fine today but is asking the Board to consider granting additional time for compliance.

Tim Glassco of Tim Glassco Painting, Inc. was present and said he was finished and the roofing would be finished by tomorrow if not at closing time today. Mr. Glassco said Mr. Walton had some extra items added last Thursday and he is requesting additional time for those. Mr. Walton said it was not additional work; it was work that came to light after the initial work was done, which will bring the property into compliance. Mr. Hoffman asked how long Mr. Walton believed it would take for them to come into compliance and he said one to two weeks. Mr. Glassco said he would like to get two weeks if he could not get an extension to the next Board meeting because he has moved on to another project. He said it would be mid to late next week before he could get back to this one. Mr. Hoffman told Mr. Glassco it would be prudent for him to get his crew back on this project and get it completed.

Mr. Koepfel said he was confused why this case was under fine consideration on the agenda and Mr. Walton said it was because they did not comply in the time set by the Board after they were found in non-compliance. Mr. Walton said if the violator does not come into compliance by the time authorized by the Board, the case must come back for fine consideration or to request additional time if they have a reasonable explanation why they have not come into compliance. Mr. Glassco said there was another contractor, Dream Builders, on the job before him. Mr. Ballentine asked if there had been any complaints from neighbors and Mr. Walton said there had not been, that this case was initiated by code inspectors. Mr. Glassco asked if he could get an additional 21 days to comply and that request was denied.

**MOTION BY MR. KOEPEL TO GRANT THE VIOLATOR ADDITIONAL TIME TO COME INTO COMPLIANCE, UNTIL JANUARY 30, 2009 AND IF COMPLIANCE IS NOT ACHIEVED BY THAT DATE, A FINE OF \$250.00 A DAY WILL COMMENCE ON JANUARY 31, 2009 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED.**

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

- B. Case # 08-2583 271 La Puerta Way, 271 La Puerta LLC  
Violation of Chapter 42, Section 42-228 of the Town of Palm Beach Code of Ordinances, the maximum permissible emission of noise level is 64 dBA for day and 58 dBA for night

Code Enforcement Officer Bryant Weymer said this case was heard November 20, 2008 and the violator was found in non-compliance, assessed administrative costs in the amount of \$150.00 and given until December 15, 2008 to achieve compliance.

The contractor hired to do the work is Tim Givens Building and Remodeling. Mr. Weymer said he spoke to Mr. Givens today who told him they had applied for the permit but it was returned for corrections. Mr. Givens said he planned to submit for overnight review of the permit next week. Mr. Givens said there was a delay with the job due to the original architect backing out and the time it took to hire a new architect. The Town recommends extending the compliance time to February 16, 2009 and if compliance is not achieved by that date, a fine of \$75.00 a day commence on February 17, 2009 and continue until compliance is achieved.

Ms. Greenberg asked Mr. Weymer what was creating the noise and he said it was both the pool heater and the A/C equipment on the west side of the property. Mr. Fried asked what the decibel reading at night was and said if it was something disturbing the neighbors, he would look at it differently. Mr. Weymer said the air conditioner produced 60.5 decibels and the pool heater and air conditioning equipment together produced 65.4 decibels. The permissible noise level for that area is 64 decibels for the daytime and 58 decibels for the night time. The builder did tell him the equipment has been shut off in the interim because it is a spec house and there is no one living in it but Mr. Weymer was unable to verify that.

**MOTION BY MR. KOEPPEL TO GIVE THE VIOLATOR ADDITIONAL TIME TO COMPLY, UNTIL FEBRUARY 16, 2009 AND IF COMPLIANCE IS NOT ACHIEVED, A FINE OF \$75.00 A DAY WILL COMMENCE ON FEBRUARY 17, 2009 AND CONTINUE UNTIL COMPLIANCE IS ACHIEVED**

**SECONDED BY MR. OCHSTEIN**

**MOTION PASSED UNANIMOUSLY**

C. Case # 08-2585, 242 Cherry Lane, Charles W. Smith

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 in good repair and roofs shall be maintained so as not to leak

Code Enforcement Officer Bryant Weymer said this case was also heard at the November 20, 2008 meeting. The violator was found in non-compliance and ordered to have the repairs completed by December 15, 2008 and to pay \$150.00 in administrative costs, which have been paid. Mr. Walton spoke to the property owner

and had an appointment to meet with him at the residence and discuss all of the violations on the property. Mr. Smith was unable to attend but sent his realtor. The

majority of the repairs have not been done. The Town recommends a fine of \$200.00 a day commence on December 16, 2008 and continue to run until compliance is achieved.

**MOTION BY MR. OCHSTEIN TO ASSESS A FINE IN THE AMOUNT OF**

**\$200.00 A DAY, COMMENCING ON DECEMBER 16, 2008 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED.  
SECONDED BY MR. FRIED  
MOTION PASSED UNANIMOUSLY**

D. Case # 08-2586, 135 Root Trail, Root Ocean Property LLC

Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions not permitted and Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, roofs, interior walls and ceilings to be kept in good condition, exterior surfaces to be kept painted and stairwell guardrails to be structurally sound

Code Enforcement Officer Nick Gerry said this case was heard at the December 18, 2008 meeting and the violator was found in non-compliance and was given until January 12, 2009 to comply. The repairs have not been completed so the Town is recommending a fine in the amount of \$250.00 a day, commence on January 15, 2009 and continue until all violations are corrected. Mr. Fried asked if the \$250.00 fine was on each of the two Code sections which were violated. Mr. Gerry said the Town was only recommending a \$250.00 fine but the Board could decide to make it \$250.00 for each violation and the Town would not object to that. Mr. Fried said he recalled the case quite clearly and thought it was an unfortunate set of circumstances which was being created for the people living in those buildings. Mr. Fried said he would prefer to see two separate violations and two separate fines imposed.

Mr. Gerry said the owner submitted for an interior demolition permit which was denied by the Building Department and returned to the property owner. Mr. Gerry said two tenants have moved out but he received a letter from the property owner advising the east building still has two tenants and he was trying to show compassion and work with them to get them out. The violations still exist and there is no permit for any kind of work. The Building Department did go by and do an inspection as ordered by the Board and there were no immediate life safety issues found at that time.

Eugene Fagan, the owner of the property, was present and said he bought the building in April. The building has many things wrong with it; it is falling down and needs to be gutted from top to bottom. Mr. Fagan said he is planning on turning the building into two houses and has been working with Paul Castro since September or October.

It is an odd zoning issue because it is two buildings on one lot and does not fit any of the zoning codes. Mr. Fagan said this was the first time he had heard his demo permit was denied. He said he has been asking what is going on with it as it had been several weeks since it was submitted. The building has rotten wood and the roof has leaked three times. He has had three roofers there and he cannot stop the leaks. The building must be gutted from top to bottom. He does not want to spend tens of thousands of dollars to fix a building he is actively trying to demolish. He is

caught in the middle. The people still left in the east building owe him 8 months rent. They are an old lady and an orphan and he cannot throw them out on the street. His choice is to be fined \$250.00 a day or put a family on the street. He is going to have an opening in the west building in the next couple of days and he will give them a little time to go there. All of the leases have expired and he is trying to help people get move out. He does not know why his demo permit was denied.

Ms. Duemler said she originally thought and still does that the motive behind not fixing the building up was to get the people out. Mr. Fagan said that was not the case, it is just that the buildings are in such disrepair from lack of maintenance over decades. Mr. Fagan said he is an architect and the only way to fix the building is to gut it from top to bottom.

Ms. Van Buren thanked Mr. Fagan for appearing today because the Board had a lot of concerns and trouble with this case last month. She said it was nice to have him in front of the Board and get his prospective. She said she agreed with him that he was somewhat caught in the middle but there has to be a resolution to this case one way or the other. Ms. Van Buren said there were some safety issues which needed to be addressed and this was the Board's concern last month. Mr. Fagan said he knew the hand rail was a big issue and he had tried to get someone to repair it but it was such a small job, it was difficult to get someone to do it. He said he was searching for a solution rather than just giving everyone a three day notice to get out. Mr. Vanneck asked Mr. Fagan if he was aware of these problems when he bought the property in April and Mr. Fagan said he was not. He said he was not aware there was such a terrible roof leak and many of the items on the violation list are a result of that roof leak. Water came into the apartments, staining the drywall and caving the ceilings in which he has already replaced once. When the roof leaked the third time, it was clear the roof was completely shot and the substrate underneath it was completely rotted. He has to replace the entire roof, right down to the plywood and joist. He did not realize that and said he should have climbed up on the roof before he bought the property. Mr. Vanneck commented that his building inspector must not have done a good job and Mr. Fagan agreed that the inspector should have walked around on the roof.

Ms. Duemler asked Jeff Taylor, the Building Official, to comment on the case. Mr. Taylor said the Town does not issue interior demolition permits for properties. The Town does not want a property demolished without a plan to put it back in place. The plans are returned for complete drawings on how the building is going to be

renovated. Mr. Taylor said Mr. Fagan applied for a building permit to demolish the interior of the building and interior demolition permits are not issued without a plan to rebuild. Mr. Fagan said he was originally scheduled for a variance before ARCOM in December but because of complications with the lot split, it has now been rescheduled to March. When he is heard before ARCOM in March, he can submit the renovation plans. Mr. Ochstein asked if the Town agrees the property has to either be demolished or gutted or can it be repaired. Mr. Taylor said the Town has no knowledge of the condition, that no interior inspections have been done and

there are no structural engineer reports. Mr. Taylor said if Mr. Fagan wants to repair the building that is fine with the Town as long as he provides drawings and a plan to repair the building. Mr. Gerry said the property could be repaired. Mr. Fagan said it was more than the roofing membrane. He will have to replace the plywood and the joists which means leaving the units exposed to the weather. Mr. Taylor said Mr. Fagan has plans for the building which have not been approved by other committees in Town. This is causing a delay in the actual repair. A permit could be issued as soon as the Town gets the drawings but Mr. Fagan seems to want to do something else which he has not received permission to do. Mr. Fagan said he is going to turn the east building into his own home but has not gotten the needed approvals.

Mr. Fried commented that Mr. Fagan's appearance before the Board had aided his case. Mr. Fried said he had reconsidered imposing two fines and is satisfied with the Town's recommendation. Mr. Fried told Mr. Fagan that the Board is always in a position to reconsider a fine after it is imposed and if Mr. Fagan continued to do the right thing, he would be viewed favorably if he appeared before the Board again.

Mr. Fagan said he would be more than happy to work with the Board in any way as this is a strange case and he respected the Board's position.

**MOTION BY MR. FRIED TO ASSESS A FINE IN THE AMOUNT OF \$250.00 A DAY, COMMENCING ON JANUARY 16, 2009 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED.  
SECONDED BY MR. OCHSTEIN  
MOTION PASSED UNANIMOUSLY**

**VII. Fine Reduction:**

A. Case # 07-2266, 159 Sunset Ave., 159 Sunset Ave. LLC & William Bell Construction

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

Lead Code Enforcement Officer Robert Walton said this fine reduction hearing was requested by the contractor and is a construction time limit case. After being granted additional time, the construction project went over 126 days before coming into compliance. There was a \$250.00 a day fine which ran and the fine due is \$31,650.00.

Bud Palmieri was present and said he was the owner of 159 Sunset Ave., or rather the managing member of the LLC that owns the property. Mr. Palmieri distributed a document to the Board which he read into the record. Mr. Palmieri said there was a problem with a fireplace that was on the plans which caused the project to run over the additional time extended by the Board. Custom made doors had been made and

installed for the fireplace. Two fireplace inspections failed and they were told after the second inspection that they needed engineer details for the fireplace doors. The glass door could not be certified and had to be removed. Factory produced glass doors were then installed and the gas logs and gas piping were removed to comply with the Code interpretation. Another inspection stated the bedroom fireplace was in a prohibited location. A final inspection was done and the CO was signed off by the Town in February, 2008. The house had been completed and all they were waiting for was for the Town to sign off on the fireplace. He is requesting to pay a \$50.00 a day fine which would amount to \$6300.00 and would be more appropriate in his opinion. Mr. Palmieri said he has been trying to sell the house for about a year. He is asking the Board to understand the circumstances and reduce the fine to something affordable.

Mr. Koeppel asked if the house was otherwise completed in the time that was granted as an extension. Mr. Walton said he did not have a complete inspection record. His recollection is that it was substantially complete. Mr. Koeppel ask if there was a disturbance of any neighbors and Mr. Walton said there were disturbances because the house was in a difficult situation because it is directly adjacent to the Sun and Surf. There were some elderly neighbors there who were quite concerned with any amount of noise. Mr. Walton said he did receive complaints and he talked to Mr. Palmieri a number of times. During the end of the project, there were also some complaints. Mr. Koeppel asked Mr. Taylor if the project was substantially complete within the time frame except for the fireplace issue. Mr. Taylor said the problem occurred because of the difference between a wood burning and a gas fuel fireplace. The Code assumes a wood burning fire fireplace requires maintenance to keep burning while a gas does not. There are certain restrictions on gas burning fireplaces that Mr. Palmieri had problems complying with and that is why the fireplace was eventually converted to a wood burning fireplace to meet the Code and that took time to resolve. Mr. Koeppel asked if the original approved plans reflected a wood burning fireplace. Mr. Taylor said they reflected a fireplace and the issue of it being gas came in later.

Mr. Palmieri said he is considered neighbor friendly when he is building something and in response to that, being next to the Sun and Surf, he always started work an hour later than he had to because of the concern with the neighbors. At the time he was under fine, there was no noise going on. Mr. Koeppel said this is what he was

trying to determine. Ms. Duemler said she wanted the Board to consider it took 90 days to resolve the fireplace issue so it would be \$22,000 worth of inspection time and she would like the Board to consider reducing the fine by that much. She said she believed it was outrageous for it to take 3 months to get a fireplace approved on a completed house.

Mr. Ochstein said he overlooks this house and agreed that Mr. Palmieri did a pretty good job. He said he is concerned that Mr. Palmieri also owes a \$250.00 water violation from April. Mr. Palmieri said Mr. Walton just informed him about that. He believes this may be the result of a misunderstanding with some new plants being

watered. Mr. Walton said Mr. Palmieri said he would pay the outstanding water fine today, immediately after the meeting. Mr. Ochstein agreed they had done a lot of planting and Mr. Palmieri said a lot of them died due to the water restrictions.

Ms. Van Buren said she agreed with Mr. Koeppel that the house was substantially in compliance and the remaining issue was the 90 days of inspection time. Ms. Van Buren said there seemed to be a lot of discrepancies about what needed to be corrected on the inspection reports. Mr. Palmieri said the inspectors were not specific and ever time an inspector came out, it was a separate issue. Mr. Palmieri said he was trying to comply because he was being fined \$250.00 a day. Ms. Van Buren said she would be inclined to consider a fine reduction along the lines of what Ms. Duemler suggested which would be to reduce the fine by \$22,500.00. Sgt. Krauel said he had done the calculation and this would take the fine down to \$9150.00. Mr. Fried said he was also in total agreement with Ms. Duemler's approach. Mr. Walton asked that it be included in the motion that the fine be paid within 30 days or it would go back to its original amount.

**MOTION BY MS. DUEMLER TO REDUCE THE FINE IN THIS CASE TO \$9150.00 IF PAID BY FEBRUARY 13, 2009  
SECONDED BY MR. FRIED  
MOTION PASSED UNANIMOUSLY**

- 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 requested a fine reduction hearing but was not present today. Mr. Walton asked the Board to postpone the case until Mr. Macari was present so he could make a positive case. Mr. Fried asked if this would suspend the fine if the case is postponed and Mr. Walton said Mr. Macari is now in compliance and there is no fine currently running. Mr. Walton advised that someone can only come to the Board for a fine reduction if they are in compliance. Once someone is in compliance, the law states they can

petition the Board once for a fine reduction. Mr. Macari sent a letter requesting a fine reduction hearing but Mr. Walton said he does not have anything in the file that indicates Mr. Macari was advised of the hearing date.

**MOTION BY MR. KOEPPEL TO POSTPONE THE CASE TO FEBRUARY 19, 2009  
SECONDED BY MS. GREENBERG  
MOTION PASSED UNANIMOUSLY**

**VIII. Board Comments:**

Mr. Koeppel said he would like a further explanation of the two cases discussed earlier. Mr. Walton said if someone is discovered doing work without a permit, a stop work order is issued and the person or his company is issued a notice to appear with the appropriate fine from the fine schedule. The person is given the option of paying the fine or appearing before the Board. If the fine is paid just prior to the hearing date, the case may still appear on the agenda. The contractor is told he must get a permit and all required inspections. If the contractor does not get a permit, the homeowner is cited and given time to come into compliance. If the homeowner complies, the case is over. If the homeowner does not comply, the Board will hear the case.

Mr. Koeppel said the part he does not understand is if the homeowner complies and gets the permit, is there a time period in which the work has to be completed and Mr. Walton said there was. Mr. Koeppel asked how that is determined. Mr. Walton said they are given a reasonable amount of time which is discussed among Code staff and the Building Department. Mr. Walton said the ordinance says a reasonable amount of time cannot exceed 30 days. Sometimes even though the person is trying to comply and doing everything right, they cannot comply within 30 days and the case has to be brought before the Board. Mr. Koeppel said in case B, there was a \$250.00 fine paid by the contractor and Mr. Walton said that was correct. Mr. Koeppel wanted to know how the homeowner is notified of the time frame to complete the work. Mr. Walton said it depends on the circumstances. If it is a substantial remodel that cannot be completed within 30 days, they are told to get the permits and start getting inspections. Mr. Walton said the contractor is cited and the homeowner is sent a letter with a deadline for completion. Mr. Koeppel asked Mr. Walton to explain the case on Tangier and why that case was being required to be completed in a day. Mr. Walton said he did not believe the specific case could be discussed as it had already been heard and that perhaps they could just talk in generalities. Mr. Randolph said he could talk about what was being done now on the case, what violation took place which is causing the Town to issue a subsequent notice of violation. Mr. Gerry said this was the property owner being cited in this case. The property owner had been required to get a permit and a final inspection by December

29, 2008. Mr. Koeppel wanted to know what the time period allowed was and Mr. Walton said the case started on November 28, 2008. Mr. Gerry said the front door in this case was already installed and the job was completed the day he was there. Mr. Gerry said he does not believe the owner intended to call for a final inspection; they just wanted to get a permit and have the issue dropped. Mr. Gerry says he does not believe the door is going to meet code and that is why the homeowner has not gotten a final inspection. Mr. Walton said when he first started this job, he would only require they get a permit and then he discovered there were a lot of permits out there that were never finalized so that is why it had to go to that next step of also requiring the final inspection.

Ms. Greenberg asked about the fine being the same for working without a permit and

working after hours, advising that she believed one was a more serious violation than the other. Mr. Randolph said that is the fine schedule set out in the ordinance and that is all Staff can do. Mr. Randolph says Council can make any determination it wants as to what the appropriate fine is and at the last council meeting, there was an amendment to two sections of the Code, one relating to noise, increasing the fine from \$125.00 to \$250.00 and also increasing the fine from \$125.00 to \$250.00 for animal feces being deposited on a person's property. All Code Enforcement can do is bring the Board the fine that is set out in the ordinance. Ms. Greenberg said this should be brought to the Council's attention. Ms. Greenberg said there are a lot of people who should know better, such as contractors, who do not pull permits. Mr. Walton said the maximum amount of fine allowed by state statute is \$250.00 and there is going to be a meeting in March on computerizing the system for better tracking of these violations. Mr. Koeppel remarked that the fine doubles if it is a second offense.

Mr. Hoffman said it is his understanding that the Town is also setting up a program to notify the state when contractors are doing work without permits even if the fine is paid and they do get the permit. Hopefully, the state will take action on these reports. Mr. Walton said this was correct, that it would be done in conjunction with the Building Department and the Building Official.

**IX. Adjournment:**