

**BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD
MINUTES OF BOARD MEETING – December 6, 2012**

The Board meeting was called to order at approximately 9:45 a.m. on Thursday, December 6, 2012 by Chair Stuart Kaufman.

The Clerk called roll and the following members were present:

Stuart Kaufman, Chair
Lily Sayre, Vice Chair
Robert McColgan
Ronald Kaplan
Dr. Mark Gendal
Commissioner Pamela Bushnell

The following member was absent:

Karen Kaestner

Also present were: Patrice Eichen, Attorney for the Board
Paul Eichner, Attorney for the Department
Anthony Vomero, Petitioner Representative

Ms. Sayre moved to approve the October 25, 2012 minutes, which was seconded by Commissioner Bushnell and unanimously passed.

CASE NO. 12-007 OSDS, MICHAEL H. CAIN

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner advised the Board that Mr. Morgenstern had been in communication with Hollywood Code Enforcement regarding this matter and that Mr. Morgenstern had been advised that Mr. Cain had recently passed away, which was confirmed with the Department's Vital Statistics office. Hollywood Code Enforcement had told Mr. Morgenstern that they had heard from Mr. Cain's brother with whom Mr. Morgenstern had not been able to establish any direct contact. Mr. Eichner suggested that the matter be tabled until the next hearing of the Board with no additional fines at this time.

Jay Morgenstern, Environmental Engineer, gave sworn testimony in which he stated that he was informed of Mr. Cain's death just a few days prior to this hearing. Code Enforcement had advised Mr. Morgenstern that Mr. Cain's brother had indicated an interest in abating the nuisance on the property; however, Mr. Morgenstern had been unable to establish contact with him thus far. He said that he went to the property on

Tuesday, December 4, 2012, and saw no change in the condition of the violation. He added that the home remained vacant. Mr. Morgenstern submitted pictures that he had taken of the site. He said that he would make contact with Code Enforcement in an attempt to reach Mr. Cain's brother. Mr. Morgenstern added that there was no sewage on the ground but the hole on the tank remained and that a small person could fall in the tank. He said that there was an unsecured fence around the property.

Mr. Eichner recommended that the Board issue an order as follows: previous orders remaining in effect; previously assessed fines and fees remain due and owing; maintaining 90 day jurisdiction; and setting the matter for hearing at the next meeting of the Board.

Ms. Sayre motioned to adopt Mr. Eichner's recommendations; Mr. Kaplan seconded the motion, which passed without objection.

CASE NO. 12-012 OSDS, JONATHON LYNN,

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner proffered that although the Order of the Board instructed Respondent had two weeks from the date of the Order to provide the Department with a contract reflecting a contractor had been hired to repair the system, the Department had not received such in a timely manner. He stated that Anthony Johnson had told him that A Alligator had pulled a permit for the repair of Respondent's septic system. Mr. Eichner advised the Board that Deborah Lynn had telephoned the Legal Office on December 5, 2012 and advised that she had not received notice of today's hearing although a copy of the Notice of Hearing and Order had been sent to her home. Ms. Lynn was told that if there was anything she would like to have presented to the Board, she could fax that information to the legal office and it would be shared with the Board. Ms. Lynn then faxed a copy of her contract with A Alligator, which was dated September 21, 2012 with a start date of December 7, 2012, indicating that the deal had been consummated. During this phone call, she was advised that the Board would be retaining jurisdiction in that the work had not been completed. She was also told that inasmuch as the matter had not been done in a timely fashion, the decision as to how to address this matter would be left to the Board. Mr. Eichner further advised that the Board assessed fines and fees had not yet been paid, which Ms. Lynn was also told of during the above phone conversation.

Anthony Johnson, Environmental Specialist III, gave sworn testimony in which he indicated that he had been to the site on five occasions, and had been in compliance on three of those occasions; however, the violation had not been abated in that the system had not been repaired. Mr. Johnson stated that A Alligator had been to the Environmental Engineering office to pull a permit for the repair on December 5, 2012. He stated that the repair could be completed within a few days.

Mr. Kaplan opined that the Respondent had shown a flagrant disregard for the Order of the Board.

Mr. Eichner recommended that the Board retain jurisdiction, that a status conference be held at the next meeting of the Board, that previous orders remain in full force and effect, that the previously assessed fines and fees remain due and owing, and that an additional \$200 in inspection fees be imposed. He stated that it was within the Board's discretion to assess the \$250 civil penalty recommended in the previous order.

Ms. Sayre motioned that Mr. Eichner's recommendations be accepted and to impose the \$250 fine. Mr. Kaplan seconded Ms. Sayre's motion and it was unanimously passed.

Mr. Kaufman stated that there would now be a workshop as to how cases come before the Board, the Department of Health, and other related topics. This session was not recorded, and went as follows:

1. A video from Tallahassee was shown to the Board demonstrating the different functions of the Department of Health;
2. Mr. Eichner gave an overview of what the Broward County Health Department does;
3. Anthony Vomero gave an overview of the functions of Environmental Health. Commissioner Bushnell suggested that Mr. Vomero attend a meeting of the League of Cities to discuss the cities contacting Environmental Health regarding various licenses, etc.
4. Ms. Eichen discussed Board procedure.

A motion to adjourn the meeting was made at 11:55 a.m. by Ms. Sayre, seconded by Commissioner Bushnell, and unanimously passed.

PREPARED AND SUBMITTED BY:



Susan R. Greenberg, Clerk of the Board