

BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD

MINUTES OF BOARD MEETING – December 5, 2013

The Board meeting was called to order at approximately 9:43 a.m. on Thursday, December 5, 2013 by Chair Stuart Kaufman.

The Clerk called roll and all members were present:

Stuart Kaufman, Chair
Lily Sayre, Vice Chair
Commissioner Pamela Bushnell
Robert McColgan
Ronald Kaplan
Dr. Mark Gendal
Anthony Quackenbush, Esq.
Karen Hodge Kaestner

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

The minutes of the October 31, 2013 meeting were reviewed and a motion to approve the minutes was made by Commissioner Pamela Bushnell and Seconded by Ms. Sayre and unanimously passed by all.

Mr. Kaufman stated that although today's hearing might not be long, there are issues that needed to be brought before the Board because of their importance. Mr. Kaufman stated that he discussed this with Mr. Eichner and that these were not issues to be discussed over the phone. Mr. Kaufman gave his apologies for the Board meeting being brief.

The Chair of the Board and the Board's Legal Counsel read the board procedures prior to the cases being called.

All witnesses were sworn in. Mr. Hidalgo (Case No. 13-006 SP) arrived after all of the other witnesses were sworn in. Upon his arrival, Mr. Hidalgo was sworn in.

Case No. 13-009 SP Jackson Arms

Mr. Eichner appeared on behalf of the Department; Danny Albo appeared on behalf of Jackson Arms.

Mr. Eichner advised the Board that Jackson Arms had come into compliance since the Complaint dated November 19, 2013 was served and both parties have agreed upon a Stipulation. Mr. Eichner recommended to the Board that the Board accept the Stipulation and consider this matter closed since all matters are now in compliance.

Ms. Sayre motioned to accept Mr. Eichner's recommendations, and Mr. McColgan seconded the motion.

A vote was taken and the motion was passed unanimously.

Case No. 13.006 SP H & N Friendly Estates dba Montreal Inn

Mr. Eichner appeared on behalf of the Department; Mr. Ernesto Hidalgo appeared on behalf of Respondent.

Mr. Eichner gave a summary of this case as a property with a pool that had numerous violations and is about to be sold.

Mr. Eichner advised that since the last meeting of the Board, he has been advised that the fines and fees totaling \$1000 have been paid to the Department. Mr. Eichner also advised that he has been informed that the water at the Montreal Inn has been maintained at the proper levels, the pool has been closed by the management with a sign posted and a locked gate. The only violation from the October 4, 2013 complaint that is still outstanding is the VGB compliant cover. However, because the pool has been closed by the owner it is not a requirement and therefore, they are in compliance.

John Kent Edwards, Environmental Manager, Florida Department of Health in Broward County gave sworn testimony in which he stated that he inspected the property at Montreal Inn on December 4, 2013. At the time of this inspection, Mr. Edwards observed the water was clear, there was a closed pool sign, the gate was locked. He commented that the inlet line for the vacuum line (VGB compliant cover) had no cap but with the pool currently closed it was no longer an issue.

Mr. Eichner recommended to the Board that the pool at Montreal Inn is in compliance, (the pool is properly closed, the gate is locked and the water is clear) the pool remain closed and the water quality be maintained. If the pool is reopened, the VGB compliant cover must be repaired and the management of Montreal Inn must call for reinspection.

Commissioner Pamela Bushnell motioned to adopt Mr. Eichner's recommendations, and Mr. Mc Colgan seconded it. A vote was taken and the motion was unanimously passed.

Case No. 13-008 SP Palm Village

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

Mr. Eichner stated that this case was heard at the October 31st hearing of the Board. At that time, Ms. Carter appeared on behalf of Palm Village and on behalf of Mr. Friis, the Registered Agent for Palm Village. Mr. Eichner represented that the Health Department Inspector spoke to Ms. Carter immediately after the October 31st hearing and gave her all of the information regarding what was required to come into compliance and that she also walked her to the counter to pay the permit fee. From that time until yesterday the Health Department Inspector has had no contact with Ms. Carter. Mr. Eichner noted that they were properly noticed of this the hearing in the Order and the Notice of Hearing that was mailed to them. Additionally, Ms. Carter was advised of the December 5th meeting at the October meeting of the Board.

Faith Ray, Environmental Specialist for the Florida Department of Health in Broward County, gave sworn testimony in which she indicated she reinspected the property at Palm Village Deerfield Beach Property Owners Association on December 4, 2013. At the time of this inspection, she observed the gate was repaired and the water quality was being maintained at the proper levels. Ms. Ray stated there was still an inoperable flow meter, no life ring or rope, and the sanitary facilities were inaccessible. Palm Village has not closed the pool. The Department has closed the pool. When Ms. Ray spoke to Ms. Carter on Monday, December 9th, Ms. Carter did not know who Ms. Ray was and stated she no longer worked for Mr. Friis. Ms. Carter also stated she believed he had hired an attorney to appeal the decisions of the Board. Ms. Ray spoke to a former pool caretaker named Jim to get a status update on the pool. Jim stated there is a life ring in a locked clubhouse. Ms. Ray stated she has not been able to contact Mr. Friis.

Ms. Sayre stated because Mr. Friis is unresponsive, she would like him to be subpoenaed for the next hearing.

There was some discussion as to whether Ms. Ray has seen any one swimming in the pool and if law enforcement should become involved regarding the locked facilities.

Mr. Eichner expressed safety concerns for the pool area of Palm Village and that they have not come into compliance with the complaint. Due to these concerns, Mr. Eichner recommended the following to the Board: Palm Village needs to come into compliance with the violations consisting of no life ring in pool area, no access to the sanitary facilities, and an inoperable flow meter by December 12, 2013 and that an additional \$500 Administrative Fine be imposed. Additionally, all Administrative Fines and Fees be paid by January 29, 2014, (previously imposed and the current Administrative Fine of \$500 and a reinspection fee of \$40) by paid by January 29, 2014. Or alternatively, instead of fixing the violations restrict access to the pool by whatever means they see fit, maintain water clarity, and have a pool closed sign posted by the Respondent by December 12, 2013. The Health Department Inspector will reinspect the property on December 13, 2013 and prior to the next meeting of the Board. A subpoena is to be issued for Mr. Friis to appear before the Board if Palm Village does not comply or the pool is not closed by them by December 12, 2013. That the Board retain jurisdiction for 90 days, that they return for status conference, and that all standard sanction language applies.

Ms. Sayre requested to Amend her motion to include the recommendations of Mr. Eichner.

Commissioner Bushnell seconded and the motion was unanimously passed.

Mr. Kaufman motioned to adjourn the meeting at 10:43 am.

PREPARED AND SUBMITTED BY:



Lisa M. Castello, Clerk of the Board