

## **BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD**

### **MINUTES OF BOARD MEETING – February 23, 2012**

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The Board meeting was called to order at approximately 9:39 a.m. on Thursday, February 23, 2012 by Chair Stuart Kaufman.

The Clerk called roll and the following members were present:

Stuart Kaufman, Chair  
Lily Sayre, Vice Chair  
Dr. Mark Gendal  
Robert McColgan

The following members were not absent:

Karen Kaestner  
Mayor Pamela Bushnell

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

Mr. Kaufman introduced and welcomed Robert McColgan to the Board. Mr. McColgan advised the Board of his environmental health background.

A motion was made by Ms. Sayre to approve the January 27, 2011 minutes, which was seconded by Dr. Gendal and unanimously passed.

#### **CASE NO. 12-003 SP, CHATEAU MAR CONDOMINIUMS ASSOCIATION, INC.**

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

Mr. Eichner advised the Board that a Stipulation had been reached in this matter, which involved the Respondent having failed to place a fence around the pool heater. The Respondent had since complied with this violation and paid the stipulated fee. Mr. Eichner asked that the Board adopt the Stipulation. Ms. Sayre moved to adopt the Stipulation, which was seconded by Mr. McColgan and passed without objection.

#### **CASE NO. 12-001 SAN, BRAD HERTZ**

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

Mr. Eichner read the Complaint into the record.

Jay Morgenstern, Supervisor for the Onsite Sewage Treatment Program, gave sworn testimony in which he stated that he received a complaint regarding the subject property indicating that there was untreated human waste on the ground. Mr. Morgenstern testified that he first went to the property January 9, 2012 at which time he found sewage on the ground behind the residence, which constituted a sanitary nuisance. He stated that there was a group of several buildings on this parcel of land and that he confirmed that there sewage on the ground. He stated that while at the site, he asked a resident to flush the toilet, at which point water he observed coming up behind the house. After speaking to the owner, Brad Hertz, a few times, Mr. Morgenstern issued a Notice of Violation to Mr. Hertz, on January 19, 2012

at his residence, for which Mr. Hertz refused to sign. Mr. Morgenstern indicated that he had been to the property prior to the issuance of the Notice of Violation and had previously served a Notice on the property manager, but after seeing that nothing was being done to correct the problem, he opted to serve the Notice of Violation directly on Mr. Hertz. The correction date on the Notice of Violation served on Mr. Hertz was January 23, 2012, on which date Mr. Morgenstern re-inspected the property and found that no action had been taken by Mr. Hertz to abate the nuisance. Mr. Morgenstern again went to the site on January 26, 2012, February 2, 2012 and February 21, 2012 at which time he took photographs of the nuisance; the nuisance had not been abated during any of these visits. Mr. Eichner moved that these photographs be moved into evidence, which the Chair allowed. Mr. Morgenstern described the photographs to the Board. He said that the nuisance still existed. Mr. Morgenstern stated that the area had newly installed sanitary sewers, however he was unable to determine if this property was connected to the sewer system. He said that it did not appear to be a major repair problem, but the owner of the property was not cooperating with the Department.

Mr. Morgenstern indicated that the home on the property with the sewage problem was a single family home and that the other building was a multi-family home and was some type of transitional housing in which rooms were being rented. Mr. Eichner advised the Board that this property was in foreclosure. Mr. Kaufman suggested that this matter be forwarded to another agency to inspect the legality of the rentals in the second house on the site. Mr. Morgenstern stated that the owner's son had told him that since the property was in foreclosure, they were not going to do anything to correct the problem.

Mr. Eichner made the following recommendations: That the Respondent be found in violation of the laws cited in the

1. Impose a \$500 for the Notice of Violation issued.
2. Impose the \$500 administrative fee.
3. Impose re-inspection fees of \$50 each for January 26, February 2, and February 21, 2012.
4. The Board order Respondent to come into compliance by March 9, 2012.
5. Fines to be paid by March 9, 2012.
6. The Board retain 90 day jurisdiction
7. The matter be set for a status at the next meeting of the Board.
8. The order include standard sanction language.
9. The Health Department be directed to notify the City of Fort Lauderdale Code Enforcement as to the housing issue and the open sewage should the City have the ability to correct the nuisance.

Mr. McColgan suggested that the Respondent be given less time to correct the problem.

Ms. Sayre suggested that the Board subpoena Mr. Hertz to appear at the next hearing.

There was discussion as to contacting the mortgager to make them aware of the sewage issue.

Mr. Morgenstern indicated that the area on which the sewage was found is a low traffic area.

Mr. Eichner asked that a motion be made finding that:

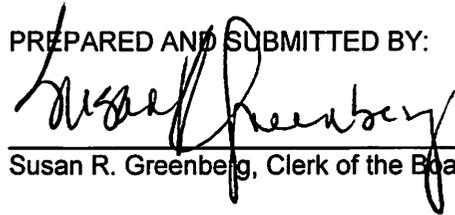
1. Respondent be found in violation of the laws cited in the Complaint.
2. A \$500 civil penalty be issued for the Notice of Violation issued.
3. A \$500 administrative fee be issued.
4. \$50 fees be issued for the three aforementioned re-inspections.
5. Health Department to notify the City of Fort Lauderdale Code Enforcement as indicated above.
6. Respondent correct the nuisance by March 2, 2012.
7. Respondent shall apply lime to affected area as needed.
8. The matter be heard at the next meeting of the Board

9. Standard sanction language.
10. The Board retain 90 day jurisdiction
11. Respondent be served with a subpoena to attend the next meeting of the Board.

Dr. Gendal moved to adopt these recommendations, which was seconded by Mr. McColgan, and unanimously passed.

A motion to adjourn the meeting was made, seconded and unanimously passed.

PREPARED AND SUBMITTED BY:



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Susan R. Greenberg, Clerk of the Board