

**BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD
MINUTES OF BOARD MEETING – February 28, 2013**

The Board meeting was called to order at approximately 9:40 a.m. on Thursday, February 28, 2013 by Chair Stuart Kaufman.

The Clerk called roll and the following members were present:

Stuart Kaufman, Chair
Robert McColgan
Ronald Kaplan
Dr. Mark Gendal
Commissioner Pamela Bushnell
Karen Kaestner

Ms. Sayre was not present for roll call but did arrive shortly after.

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

A motion was made by Ronald Kaplan to approve the minutes of the December 6, 2012 meeting. It was Seconded by Robert McColgan. The minutes were passed as written.

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 Mr. Morgenstern had been advised that Mr. Cain had recently passed away.

Jay Morgenstern, Environmental Engineer, stated Code enforcement has said this property is now in compliance. Mr. Morgenstern has visited the property and the open tank that was the subject of the complaint now covered.

Mr. Eichner recommends the board take no further action and let the jurisdiction run.

CASE NO. 12-012 OSDS, JONATHON LYNN,

Mr. Eichner appeared on behalf of the Department; Mr. Lynn appeared on behalf of the Respondent.

Mr. Eichner stated that he has received a letter from Ms. Lynn, who has previously appeared before the board, indicating that they are in compliance with the request of the Broward County Health Department and request that the fees be reassessed. Mr. Eichner stated he did not have a position as to the amount of fines imposed by the board and that the property is now in compliance, which is the goal of the Broward County Health Department.

Anthony Johnson, Environmental Specialist III, gave sworn testimony in which he indicated that he had been to the site on eight occasions, and the property had been in compliance on three of those occasions. On the last inspection, the property was in compliance and the drain field had been replaced.

Ms. Sayre motioned to impose all fines on the respondent.

Dr. Gendal made a friendly amendment to the motion requesting that the Respondent show proper receipts at the next board meeting and if the testimony was accurate, the Board should charge him the original \$300 fine plus \$100 for 2 inspections which the property failed totaling \$400.

Mr. Eichner clarified the procedure by stating the \$300 was a stipulation prior to hearing to allow the Respondent to come into compliance in a timely manner. When that did not happen the stipulation was negated and the \$300 charge was no longer an option. A hearing was held and it was determined that there would be a \$500 administrative fee imposed and \$200 for 4 inspections at \$50 each. These fees and fines were assessed because there had to be a meeting of the Board to determine the outcome of this matter.

Ms. Sayre rejected Dr. Gendal's amendment.

Ms. Kaestner requested to amend the motion by removing the fee for the inspections which the Respondent passed. This would equal to removing \$150.00 from the fines.

Ms. Sayre, in an effort to compromise, accepted this amendment.

Mr. McColgan Seconded the motion.

The board voted 6 to 1 to amend the motion. Dr. Gendal opposed.

Case 13-003, Laocharein, Vanh & Thiu

Mr. Eichner advised the Board the septic system on this property is in violation. The owners of this property do not live on the premises; however, the daughter and son-in-law reside there. The Respondents have made every effort to resolve this problem; however, due to financial constrains they were not able to begin the repair process until now. They have paid the connection fee to the city as well as hired a plumber, who is pulling the permit.

Jay Morgenstern, Environmental Engineer, gave sworn testimony in which he stated he went to the property because of a phone call. On inspection of the property found overflowing sewage, noting the septic system was in failure, issued a notice of violation to the son-in-law and noted the septic system could not be repaired and the Respondents would need to hook up to city sewer.

Mr. Thephithack, son-in-law, stated he just heard from his plumber and the permit has been pulled. He was told the job should take approximately 2 days to finish.

Mr. Eichner recommended the board find there is a violation; retain jurisdiction for 90 days, set for the next docket for status. If the violation is in compliance, the Board not imposes any administrative fine due to the financial constraints previously discussed and the Respondents tried to complete this in a timely fashion.

Mr. McColgan motioned to table until next month and holds all fines and fees until the next meeting.

A vote was taken and the motion was passed 5 to 2. Mr. Kaufman, Mr. McColgan, Mr Kaplan, Commissioner Bushnell, Ms. Sayre approved the motion and Dr. Gendal and Ms. Kaestner opposed.

PREPARED AND SUBMITTED BY:

Lisa Castello