

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

### **MINUTES OF EMERGENCY BOARD MEETING – JULY 10, 2014**

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The Board meeting was called to order at approximately 9:40a.m. on Thursday, July 10, 2014 by Chair Stuart Kaufman.

The Clerk called roll and the following members were present:

Stuart Kaufman, Chair  
Lily Sayre  
Robert McColgan  
Dr. Mark Gendal  
Karen Hodge Kaestner

Commissioner Bushnell, Ronald Kaplan and Anthony Quackenbush were unable to attend the emergency board meeting and were not present.

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

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

All who were to testify were sworn in.

#### **JASMINE LAKES CONDOMINIUM I HOMEOWNERS ASSOCIATION      CASE NO: 14-065 SAN**

Mr. Eichner appeared on behalf of the Department; Susan Hayes appeared on behalf of the Respondent.

Mr. Eichner advised the members of the Board that the Respondent before them today was here last year. The Respondent has complied with the Order issued by the Board last year. Jasmine Lakes Condominium I Homeowners Association is here today regarding an issue with a different area on the property.

Sabreena Iqbal testified that on July 7, 2014, she served the management company with the Complaint and Notice of Hearing for today's hearing.

Jolie Dobson testified that she has been working for the Florida Department of Health-Broward as an Environmental Specialist II for the past year. As an Environmental Specialist II, Ms. Dobson attested that she inspects mobile home parks, pools, food facilities and investigates complaints reported to the Health Department regarding sanitary nuisances.

Ms. Dobson gave sworn testimony that she had the occasion to visit Jasmine Lakes Condominium I, located at 4725 SW 62 Avenue, Building 4, Davie and 4730 SW 62 Avenue, Building 5, Davie. Ms. Dobson described this location as a cluster of 5 buildings, each building numbered as indicated by the signs on each building (as shown in Exhibit 2 and Exhibit 3, to be entered into evidence later). Each building is 3 floors high, attached by common area walkways and parking for residents and visitors is located along the perimeter of the buildings. The main road for entrance to the development is on SW 62 Avenue.

Ms. Dobson testified that the only knowledge she had of the issues at the Respondent's property was that she received a complaint to investigate and that there had been another case at this location in 2013. She also stated that she was aware that a complaint had been filed in June. Ms. Dobson was not the inspector who investigated the June complaint.

Ms. Dobson affirmed that she arrived at Jasmine Lakes Condominium I on July 2, 2014 at approximately 11:00 a.m. She parked closest to buildings 1 and 2 and walked around all the buildings. Ms. Dobson testified that as she approached buildings 3, 4, and 5 she noticed a strong, offensive, objectionable odor as well as heard a squeaking sound coming from above. Mrs. Dobson explained that as she got closer to buildings 4 & 5 the odor became worse. Ms. Dobson testified that as she got closer to the buildings she notices dots on the walkways which she associated with droppings. She made the assumption that it was droppings because she described that as she was standing there something fell right next to her which looked the same.

At this point Mr. Eichner presented Exhibit 1, (an aerial view of Jasmine Lakes Condominium I, which was also projected on to the screen via a power point presentation) after showing hard copy of the same to the Respondent. Mr. Eichner moved to have Exhibit 1 entered into evidence; Mr. Kaufman accepted.

Ms. Dobson stated that while she was at the property on July 2, she took photographs to document the issues she saw. Since she issued an NOV on this dated, with the cure date of July 3, 2014, she took photos on that day also to prove the nuisance was still present.

At this time Mr. Eichner presented Exhibit 2 and Exhibit 3 (after showing a hard copy of same to the Respondent) to the Board (photographs of the buildings and walkways) which were admitted into evidence.

Ms. Dobson read Florida Statutes 386.01 and 386.041 and Broward County Code of Ordinances 14-67(a) which is the criteria she used to determine this is sanitary nuisance.

Mr. Eichner more specifically read Broward County Code of Ordinances 14-67(b)(1) and (5) to the Board and inquired of Ms. Dobson if these also were used as criteria for a sanitary nuisance to which she answered affirmatively.

Ms. Dobson testified that the smell was worse around buildings 4 and 5 and along the walkway between these buildings she also noticed very large flies. Ms. Dobson noted that these were not common house flies. Ms. Dobson affirmed that she saw efforts on the part of the maintenance person to mitigate the nuisance in that it looked like it had just been washed and there were small puddles on the first floor. Ms. Dobson testified that there were no puddles on the second or third floor but she did find droppings on each floor of buildings 4 and 5 mostly on the patio, ledges and walkways.

Ms. Dobson testified that on July 3, 2014 while at the Respondent's property, she saw a truck and asked the man if he worked there. The man indicated that he was the maintenance person. Ms. Dobson testified that she asked the man to come with her and she showed him an area where she observed droppings and asked him if he had cleaned that area. Ms. Dobson explained that the maintenance man replied yes and that he had just washed everything 45 minutes prior to Ms. Dobson's arrival. There was still evidence of droppings on this day, similar to those from the day before.

Anthony Vomero, Environmental Health Administrator for the Florida Department of Health – Broward gave sworn testimony that he is familiar with the issues at the Respondent's property. Mr. Vomero also testified that he has been in contact with the state veterinarian, Florida Department of Health, Karena Blackmore regarding this case. He testified that Ms. Blackmore advised that one concern for the residents is histoplasmosis. Histoplasmosis is a disease caused by fungus which can cause respiratory disease, related to the guano produced by the bats. Ms. Blackmore believes that cleaning the guano once every 24 hours should be sufficient to avoid this. The bigger concern is rabies. Rabies can come from any physical contact with a bat. Since the bat has such small teeth it is hard to discern if you have been bitten.

Mr. Vomero also testified that he spoke to Tiffany Snow of the Wildlife Commission who recommended cleaning up the guano with a 10% solution of bleach to water, which would also eliminate the odor.

At this point, Mr. Eichner presented Exhibit 4, a memo from Ms. Snow to Mr. Vomero providing the recommendation of 10% bleach solution.

Mr. Eichner showed this email to Mr. Vomero and Ms. Hayes.

Mr. Eichner moved that Exhibit 4 be placed into evidence; Mr. Kaufman accepted.

Mr. Vomero further directed a comment to the Board and to Ms. Hayes to advise the residents of Jasmine Lakes Condominium I to contact the Department of Health's Epidemiologist, Patrick Jenkins, in case of contact with a bat to. Mr. Jenkins would be able to provide further instructions for care.

There was some discussion regarding bat's status as a protected species. Mr. Vomero advised that bats are protected during maternity season, which is from April to August. Mr. Eichner further explained that bats are a protected species and no action at all can be taken during the maternity season and the laws with protect them are Federal laws.

Ms. Hayes gave sworn testimony that she is aware of the bats. She explained that the bats were there when she moved in in 1996. The problem last year was that the bats roosted in the stairwell which opened up to a grassy area below and the stairwell area was not frequently used. Because of the issues last year, the Respondent had a company come out and create an exclusion so the bats could no longer enter this area. The area the bats now occupy is an entrance way to the buildings near the mailbox area. Ms. Hayes further testified that the company the Respondent contracted with last year will not do the work because of the story run by Channel 4 news and the involvement of the Department of Health. The Association has been requesting bids for exclusions or a new roof which would prevent the bats from roosting there. However, the bid for the roof was in excess of \$300,000 and the residents could not afford the new assessment and the bank has turned them down for a loan. Ms. Hayes testified that they are following the procedure required for cleaning 7 days a week with the 10% solution. Ms. Hayes stated that she has sent a letter to all the residents advising them of the status of the bats and options they are considering. Ms. Hayes also testified that the flies are not always present. Ms. Hayes explained that the large, yellow flies were seen at the property the days Ms. Dobson visited was because some (100) infant bats fell to the ground and were lying on the sidewalk. She contacted the Wildlife care center for advice. Ms. Hayes further explained that she and a neighbor cleaned up the bats some of which were still alive. Some of the bats died because they fell 3 stories to the ground. The ones that didn't die, the larger bats, tried to get out of the sun and crawled into the elevator shaft where they died.

Mr. Eichner stated that the testimony proved a violation of the state statutes and the Broward County code of ordinances has occurred as previously identified.

Mr. Eichner made the following recommendation to the Board:

Recognizing the maternity season through August 14<sup>th</sup> requests

1) Abatement of sanitary nuisance by continuing daily cleanup using the bleach solution recommended by Ms. Snow, 7 days a week, forward with no end date until complete abatement.

2) Corrective action plan, to be submitted by the Respondent to the Health Department, outlining who, what, and when the plan of action will occur in order to abate the nuisance, after August 14, 2014 (the end of maternity season), due at the end of July 2014.

3) Post a notice to all residents at the elevator, near the mailboxes and flyers passed out to all units advising of the health risk of physical contact with bats and to contact the Health Department Epidemiologist, Patrick Jenkins if there is physical contact between a bat and a person.

4) Reserve imposition of Administrative Fines and Administrative Fee.

5) Maintain jurisdiction for 90 days, standard sanctions language and set for status hearing in August.

Dr. Gendal moved to accept Mr. Eichner's recommendations as his motion with the addition of advising the residents to supervise their children and pets and possibly replacing the soil in the grassy areas periodically where there is guano located.

Mr. Eichner also amended his recommendation to include that in addition to the cleanup being continued on the 7 day a week basis using the bleach solution, as recommended by Ms. Snow, that the guano be raked and bagged, to which Dr. Gendal agreed and same was made part of the motion.

Ms. Kaestner seconded and the motion was passed unanimously.

Mr. Kaufman motioned to adjourn the meeting at 10:40 am.

PREPARED AND SUBMITTED BY:

A handwritten signature in blue ink, appearing to read "Lisa M. Castello", written over a horizontal line.

Lisa M. Castello, Clerk of the Board