

BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD

MINUTES OF BOARD MEETING – September 24, 2014

The Board meeting was called to order at approximately 9:40 a.m. on Wednesday, September 24, 2014 by Chair Stuart Kaufman.

The Clerk called roll and the following members were present:

Stuart Kaufman, Chair
Lily Sayre
Robert McColgan
Karen Hodge Kaestner

Commissioner Bushnell, Anthony Quackenbush, and Dr. Gendal were not present.

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

The minutes of the April 24, 2014 meeting were reviewed and a motion to approve the minutes was made by Ms. Sayre and Seconded by Ms. Kaestner and unanimously passed by all.

The minutes of the July 10, 2014 emergency meeting were reviewed and a motion to approve the minutes was made by Mr. Mc Colgan and Seconded by Ms. Kaestner.

There were no witnesses for any Respondent present. One witness was present for the Department. Mr. Kaufman did not read the Statement to the Respondent nor did Ms. Eichen read the Procedures of the Board.

NOVA PALMS ALF, Inc.

CASE NO: 14-069 SAN

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

Mr. Eichner explained that Nova Palms has come into compliance since the filing of the Complaint. A representative of Nova Palms has entered into a stipulation, paying the \$300.00 stipulation fee and by signing the required stipulation.

Mr. Eichner recommended the Board accept the Motion to Adopt the Stipulation.

Mr. McColgan motioned to accept Mr. Eichner's recommendation and Ms. Kaester Seconded. The motion was passed unanimously.

Because of the previous case, there was some discussion among the Board members regarding the type of facilities that are regulated by Environmental Health section of the Department of Health. Ms. Sayre presented questions regarding an Animal Care facility. Mr. Vomero explained the different types of facilities the Department regulates. Mr. Vomero explained that if the Department permits the facility then the Department has the legal right to go into the facility for inspections.

PHILIP ANN MOTEL

CASE NO: 14-050 SP

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

Mr. Eichner explained that Philip Ann Motel had entered into a stipulation some time ago but the Department did not have the opportunity to present it to the Board to accept the Stipulation. Mr. Eichner further explained the case as a pool violation which has not had any further issues since they came into compliance. Mr. Eichner further explained that the Respondent had signed the Stipulation and paid the stipulation fee of \$400.

Mr. Eichner recommended that the Board Accept the Motion to Adopt the Stipulation.

Ms. Sayre motioned to accept Mr. Eichner's recommendation and Ms. Kaestner Seconded. The motion was passed unanimously.

BUENA VISTA COURTYARD CORP.

DBA COURTYAR VILLA

CASE NO: 14-068 SP

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

Mr. Eichner explained that he spoke to Pat Riley, the Environmental Health inspector, who advised him that Courtyard Villa has taken steps to resolve the non-compliance issues cited in the Complaint. Mr. Eichner explained that this case involved a pool which was not in compliance. Due to the progress made by Courtyard Villa, Mr. Eichner agreed to request that the Board continue this case until the next hearing.

Mr. Eichner recommended that the Board grant the continuance.

Mr. McColgan motioned to accept Mr. Eichner's recommendation and Ms. Sayre Seconded. The motion was unanimously passed.

At this point, Jolie Dobson was sworn in.

SAND DUNES APTS. DBA SAND DUNES MOTEL

CASE NO: 14-066 SP

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

Jolie Dobson stated that she has worked for the Florida Department of Health-Broward as an Environmental Health Specialist II for the past year. Ms. Dobson gave sworn testimony that she discovered that Sand Dunes Motel was out of compliance during a routine inspection. Ms. Dobson explained the motel's pool filtration system is missing the D.E. separator tank which is a violation of the Florida Administrative Code.

According to the Department's records, Sand Dunes Motel originally used a D.E. Separator pressure filter in its pool. At some point in time, prior to the April inspection, Sand Dunes Motel removed the D.E. filtration system to use an easier cartridge filtration system without getting prior approval of the Health Department. Ms. Dobson further testified that sometime between the 3rd and 4th reinspections Sand Dunes Motel reverted back to the original D.E. filtration system however, the D.E. Separator tank was not replaced. Ms. Dobson emailed pictures of a D.E. Separator to the management at the Sand Dunes Motel to show them what a D.E. Separator tank looks like and information regarding where it could be purchased. Ms. Dobson explained that through her experience dealing with other professionals a D.E. Separator tank is easily found. Ms. Dobson further explained that a D.E. Separator uses a D. E. powder which is toxic if inhaled. The D.E. powder waste is to be collected by a D.E. Separator tank. If it is not collected by the tank then the waste product is drained back into the sewer or whatever system Sand Dunes Motel uses to drain the waste water.

There was some discussion by the Board regarding the operation of D.E. Separators and cartridge systems. Mr. Vomero explained that D.E. filtration systems creates crystal clear pool water but are more work than a cartridge system.

Ms. Dobson explained that she had seen the owner's assistant on the premises, on other occasions, but when she returned to serve the complaint on September 22, 2014 she could not find anyone. Ms. Dobson testified that she also attempted service at the registered agent's office with similar results.

Mr. Eichner explained that according to Florida Statutes the registered agent is to be available between 10:00 a.m. and 2:00 p.m. Monday thru Friday and in this case they were not available.

Mr. Eichner explained that service was attempted by Ms. Dobson who was not able to locate anyone. Due to time restrictions, the Complaint was sent via UPS by his office, to multiple locations with signatures required at receipt for each mailing instead of U. S. Mail return receipt. Mr. Eicher further explained that the UPS package was sent to the Registered Agent's address where it was signed for as indicated on the UPS tracking receipt. Mr. Eichner explained that another package was sent, also via UPS, to Patrick Toma at the 5931 Polk Street address which is listed as both the mailing address and the manager's address in corporate records and also signed for according to the UPS tracking receipt.

Ms. Dobson further testified that on September 22, 2014, there was still a violation of the Florida Administrative Code in that there was still no D.E. Separator tank. The owner of Sand Dunes Motel advised her that he was not able to locate a D.E. Separator tank.

Mr. Kaufman requested a presentation by the Environmental Health staff to educate the Board regarding pool filtration systems.

There was some discussion among between the County Attorney, Ms. Eichen and Mr. Eichner regarding the proper service of the complaint. Ms. Eichen agreed that the UPS service with signature was sufficient.

Mr. Eichner recommended the Board find Sand Dunes Motel in violation of the section 64E-9.007(15), Florida Administrative Code and section 514.021, Florida Statutes for failure to have the proper filtration system. Mr. Eichner recommended an Administrative Fine of \$500, an Administrative Fee of \$500, that the Board retain jurisdiction for 90 days, that the matter be scheduled for status at the next hearing, that the standard sanction language be applied, that all fines and fee be paid within 20 days from the date of the Order, and that a \$40 reinspection fee be applied to the next reinspection which will be at the request of Sand Dunes Motel upon the issue being corrected.

Mr. McColgan motioned to accept Mr. Eichner's recommendation and Ms. Kaestner Seconded. The motion was passed unanimously.

Ms. Sayre requested an update on the situation with Jasmine Lakes.

Mr. Eichner explained that a representative of Jasmine Lakes completed a corrective action plan. Mr. Eichner advised that the Environmental Health unit was in contact with a representative of Jasmine Lakes. The Jasmine Lakes representative advised that they emailed the correction action plan to Mr. Eichner. The Department has recently changed the email address. Mr. Eichner was under the impression that the email would be forwarded to the new email address for a long period of time. Mr. Eichner advised that to date he has not received the plan. Environmental Health advised that the representative of Jasmine Lakes stated that they would email the report again to Mr. Eichner. No additional phone calls or complaints have been received.

Mr. Kaufman motioned to adjourn the meeting at 10:30 am.

PREPARED AND SUBMITTED BY:



Lisa M. Castello, Clerk of the Board