

**BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD
MINUTES OF BOARD MEETING – December 7, 2017**

The Board meeting was called to order at approximately 9:43 a.m. on Thursday, December 7, 2017, by Vice-Chairperson, Lily Sayre.

The Clerk called roll and the following members were present:

Lily Sayre, Vice-Chair
Myra Mazlin
James Dillard
Brian McCully
Robert McColgan
Karen Hodge-Kaestner

Also present were: Patrice Eichen, Esq. Attorney for the Board
Paul Eichner, Attorney for the Department
Anthony Vomero, Environmental Administrator

Approval of Minutes for August 31, 2017. Motion by Ms. Karen Hodge Kaestner approving the minutes with change “no mitigation granted” to be added in for Case 17-090 SAN /York Real Estate Ventures; 2nd by Myra Mazlin. All aye, none opposed.

Vice-Chairperson, Lily Sayre read the statement of proceedings to the Respondents.

Patrice Eichen, Esq. read the Health and Sanitary Control Board Hearing procedures.

Alicia McRae, Clerk of the Board, swore in the witnesses.

Paul Eichner proceeded with the scheduled cases.

Gold Choice Production, Inc.

CASE NO.: 17-083 SAN

Mr. Eichner appeared on behalf of the Department; Willy Jean-Jacques appeared on behalf of the Respondent.

Mr. Eichner presented the matter to the Board, advising that the matter is being heard for status, and gave a summary on the matter. Mr. Eichner advised the Board that Mr. Jean- Jacques did not appear at the prior hearings, but is presently seeking mitigation.

Mr. Eichner called Mr. Jean-Jacques to testify. Mr. Jean-Jacques testified that he paid the permit fees late due to issues with the City of Margate. Mr. Jean-Jacques testified that he did not appear at the first hearing because he did not get the notice of hearing. Mr. Eichner referred to the Return of Service Affidavit, which stated that an employee of Gold Choice Ballroom, Mark accepted service. Mr. Jean-Jacques confirmed that Mark is an employee.

Motion by Mr. Brian McCully, to have the existing motion remain without modification; that the administrative fine of \$500.00 and administrative fee in the amount of \$500.00, totaling \$1,000.00 is due thirty (30) days from the date of the hearing; second by James Dillard, all in favor, none opposed.

North Broward Christian School, Inc.

CASE NO.: 17-074 SAN

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

Mr. Eichner briefed the Board and advised that there has been no communication from the Respondent regarding the matter.

Mr. Eichner recommended that the Board extend jurisdiction for an additional 90 days, all conditions in the prior Order entered August 2017 remain in effect and that the matter be brought back for status next month. The Environmental Health Department is directed to reach out to the City where the business is located and notify the business tax receipt office and the Department of Business and Professional Regulation.

Motion by Mr. James Dillard accepting Mr. Eichner recommendation, second by Mr. James McCully, all in favor, none opposed.

Lakeside Manor (South) Association, Inc.

CASE NO.: 17-081 SP

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

Mr. Eichner advised that this case was brought back for status. The Board was advised that the Respondent is in compliance with the Order entered August 31, 2017. The stipulation fee of \$300.00 was paid and that all violations are abated.

The Professional United, Inc.

CASE NO.: 17-085 SAN

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

Mr. Eichner briefed the Board and advised that there has been no communication from the Respondent regarding the matter.

Mr. Eichner recommended that the Board extend jurisdiction for an additional 90 days, all conditions in the prior Order entered in August 2017 remain in effect and that the matter be brought back for status next month. The Environmental Health Department is directed to reach out to the City where the business is located and notify the business tax receipt office, in addition to the Department of Business and Professional Regulation.

Motion by Mr. James Dillard accepting Mr. Eichner recommendation, second by Ms. Myra Mazlin, all in favor, none opposed.

Wiley Street Pub, LLC

CASE NO.: 17-092 SAN

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

Mr. Eichner advised that this case was brought back for status. The Board was advised that the Respondent has complied with the Order entered August 31, 2017. The permit fees, administrative fees and administrative fine were all paid.

The Pointe Villas Association, Inc. (The Pointe Villas Condo Association)

CASE NO.: 17-204 SP

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

Mr. Eichner briefed the Board on the matter and advised that the stipulation fee and permit fee was paid.

Mr. Eichner recommended that the Board enter an Order adopting stipulation.

Motion by Ms. Myra Mazlin, second by Mr. James Dillard, all in favor, none opposed.

Wincast Arms North Condominium, Inc.

CASE NO.: 17-205 SP

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

Mr. Eichner called the Environmental Health (EH) Specialist II, Nazira Mejia- Nino. Ms. Nino testified that she served Jamie Blum, Manager on November 27, 2017. Ms. Nino confirmed that the complaint was for non-payment of a pool permit, which was still unpaid. Ms. Nino also stated the service address and confirmed it as the same address where the invoice, NOV and demand letter was sent to.

Mr. Eichner called Accounts Receivables Supervisor, Nicolas Kellman. Mr. Kellman testified that no payment was received for the permit fee.

Mr. Eichner recommended that the Board enter an Order finding that the Department proved by the greater weight of the evidence that there is a violation of *Florida Statute*, section 514.031, and *Florida Administrative Code*, rule 64E-9.015 in that the Respondent failed to pay the pool permit in the amount of One Hundred and Seventy-Five (\$175.00). That the violations be corrected and paid by January 19, 2018, that the Board impose an administrative fine up to \$500.00 and administrative fee of \$500.00. The Board shall retain jurisdiction for 90 days and that the matter be brought back for status next month. Additional sanctions and fees may be imposed if the Respondent fails to comply.

Motion by Mr. James Dillard accepting Mr. Eichner's recommendation, to impose a \$500.00 administrative fine, a \$500.00 administrative fee and the permit fee of \$175.00 to be paid by January 19, 2018; second by Ms. Myra Mazlin, all in favor, none opposed.

Vice-Chairman, Lily Sayre read the statement of proceedings to the Respondents.

Patrice Eichen, Esq. read the Health and Sanitary Control Board Hearing procedures.

Alicia McRae, Clerk of the Board, swore in Andrea Katz, James Williams and Clifford Saieh.

Archways, Inc. (Sunshine Apartments)

CASE NO.: 17-103 SAN

Mr. Eichner appeared on behalf of the Department; Andrea Katz and James Williams appeared on behalf of the Respondent.

Mr. Eichner called Clifford Saieh, Environment Health Specialist II. Mr. Saieh testified that he is employed with Department of Health- Broward. Mr. Saieh advised that he went to the property in August 2017 to perform a routine inspection. Mr. Saieh stated the property location and what he observed during his inspection of the property. Mr. Saieh observed many violations pertaining to cleanliness. The facility is a group care facility, apartment building consisting of many units. A notice of violation was issued based on the inspection. The re-inspection date was set for September 1, 2017, which was rescheduled for September 19, 2017.

On September 19, 2017 during a re-inspection Mr. Saieh observed that the majority of the violations were corrected, except the paint peeling from the walls and ceiling, rodent droppings in apartment #11, dead roaches in apartment #6, a live roach was observed in the kitchen of apartment #4 as well as dust accumulation. Mr. Saieh's action at that time was to leave a directive with Lolita Rogers to advise Management of the remaining violations. The re-inspection scheduled for October 3, 2017 was rescheduled for October 13, 2017.

A re-inspection was conducted on October 13, 2017, in which the conditions remained the same as the prior inspection. The photos taken on October 13, 2017 were introduced into evidence as (Composite I). The pictures were passed around for the Board members to observe, while Mr. Saieh explained what each

photo contained. After the inspection, the file was referred to Legal. There was no subsequent re-inspection date set. Mr. Saieh received a call, which prompted him to go back to the property on the November 11, 2017. At that time, Mr. Saieh only observed dead roaches in apartments #4, #6 and #11. Mr. Eichner asked Mr. Saieh to explain how *Florida Statute 381.006(16)* and *Florida Administrative Code 64E-12.006* were being violated. Mr. Saieh described how what he saw to be a violation of both the previously mentioned statute and rule. The Return of service affidavit was introduced into evidence as Exhibit II. Mr. Saieh stated to whom he served, where he served the complaint and the date he served the complaint. Mr. Saieh testified that 1 more inspection was conducted after he served the complaint and that the Respondent was attempting to make corrections to the property.

The Respondent did not have any questions of Mr. Saieh.

Ms. Lily Sayre questioned what the current status of the property was. Mr. Saieh advised that he had not been back to the property since November.

Mr. James Dillard asked if a pest control company had been hired.

Mr. Eichner had no more witnesses and rested his case. Ms. Andrea Katz, Chief Executive Officer of Archways testified on behalf of the Respondent. She advised that they are a non-profit organization (501C3). Mr. Eichner advised that there was a question as to whether this Board has jurisdiction over the matter. It is the position of DOH that the Board does have jurisdiction under *F.S. 381.006*, paragraph 16, and *F.A.C. 64E-12.006*, vector and vermin control.

Mr. Eichner suggested that the Board Order a compliance date be given to the Respondent to abate any remaining violations, direct Mr. Saieh do a follow-up inspection within 1 week of the hearing. That an administrative fee and fine be imposed, and in the interim the Respondent is directed to reach out to ACHA to find out if the Health Department has the authority to inspect their property. If the Respondent obtains documentation that the Health Department does not have jurisdiction or authority over the matter, that the Respondent may request mitigation and dismissal of the case.

Ms. Andrea Katz gave testimony that the Florida Administrative Code used by the Health Department does not apply to their facility. She insisted that they are governed under *Florida Administrative Code 65E-4.016*. Ms. Katz introduced into evidence as Exhibit I 65E-12 which is the *Florida Administrative Code* she believes the facility is governed under. The Respondent has been in contract with their pest control company since March 2013, who advised the Respondent that part of the issue is the neighbor's tree hanging over the property causing the rodent issue. The tree has since been trimmed. The pest control service agreement was entered into evidence as well as the contract with Manly Tree and Landscape (the tree trimming company). Ms. Katz advised the Board that the facility works with people suffering with severe and persistent mental illness and thought disorders. Their responsibility is to help them re-integrate into society, which includes, but is not limited to teaching skills like cleaning, how to take transportation and cooking. Ms. Katz asked that Mr. James Williams speak regarding any corrections made to the apartments.

Mr. James Williams, a witness for the Respondent added that the facility is independent living, not a group home setting. Mr. Williams advised that they have been making improvements since the inspections took place, but there are still some issues outstanding like dead roaches, which they are working on.

Questions from the Board were addressed by Mr. Eichner.

Mr. Eichner requested that the Board make the findings indicating violations of the Florida Statutes and Florida Administrative Code based on the evidence presented, order immediate compliance that the

vermin and vector control issue be addressed along with any other outstanding violations, impose a fine and fee and give enough time for the Respondent to speak with AHCA to determine if the Board has jurisdiction over the matter.

Motion by Ms. Myra Mazlin accepting Mr. Eichner's recommendation to impose an administrative fee of \$500.00 and administrative fine of \$500.00, due by February 15, 2018, a re-inspection of the property no later than December 15, 2017, and brought back for status on January 25, 2018, second by Mr. James Dillard, all in favor, none opposed.

It is ordered that the Respondent come into compliance by December 8, 2017, that the inspector re-inspect the property no later than December 15, 2017, that an administrative fee of \$500.00 and an administrative fine of \$500.00 is to be paid by February 15, 2018 and brought back for status on January 25, 2018.

GHJ, LLC (Blarney Castle)

CASE NO.: 17-203 SP

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

Mr. Eichner advised the Board that this case is for a delinquent pool permit.

Mr. Eichner called Clifford Saieh, EH Specialist II, previously sworn in. Mr. Saieh confirmed that he served the Respondent, Ekaterina Nezkivaya, (Manager) on November 29, 2017. The Complaint was served due to failure to pay a pool permit. Mr. Saieh confirmed the address where the complaint was served. Mr. Eichner entered Exhibits A,B,C into evidence as Departments #1. Mr. Saieh confirmed that all exhibits were mailed to the same address where he served the complaint.

Mr. Eichner then called Nicolas Kellman, AR Supervisor, who advised that there were no payments received to date.

Mr. Eichner recommended that the Board enter an Order finding that the Department proved by the greater weight of the evidence that there is a violation of F.S. 514.031, 64E-9.015 in that the Respondent failed to pay the pool permit, that the violations be corrected and paid by January 15, 2018, impose administrative fine of \$500.00 and an administrative fee of \$500.00. The Board shall retain jurisdiction for 90 days and that the matter be brought back for status next month. Additional sanctions and fees may be imposed if the Respondent fails to comply.

Motion by Ms. Hodge- Kaestner, second by Mr. James Dillard all in favor, none opposed.

Prince George Condominium Association, Inc. (Prince George Condo Spa) **CASE NO.: 17-208 SP**

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

Mr. Eichner called Christina Edghill, Environmental Health Specialist II. Ms. Edghill testified that she was not able to serve the President due to not being allowed beyond the security desk, but did leave the complaint with the security guard at the front desk, Shabine Germain on November 21, 2017. Ms. Edghill explained the contents to Ms. Germain with directions to give the package to the Board President. Mr. Eichner entered Exhibits A,B,C into evidence as Exhibit I. Ms. Edghill confirmed that exhibits A,B,C were all mailed to the same address where she served the complaint.

Mr. Eichner then called Nicolas Kellman, AR Supervisor, who advised that there were no payments received to date.

Mr. Eichner recommended that the Board find that the Department proved by the greater weight of the evidence that the Respondent is in violation of the *Florida Statute 514.031, Florida Administrative Code*

64E-9.015. The violations are to be corrected on or before January 15, 2018 by paying the outstanding permit fee in the amount of One Hundred and Seventy-Five Dollars (\$175.00), the administrative fee of Five Hundred Dollars (\$500.00) and the administrative fine of Five Hundred Dollars (\$500.00). The Board shall retain jurisdiction for 90 days and that the matter be brought back for status next month. Additional sanctions and fees may be imposed if the Respondent fails to comply.

Motion by Mr. Robert McColgan, seconded by Ms. Karen Hodge- Kaestner, all in favor, none opposed.

Roshini Investments Group, Inc. (Travelodge) **CASE NO.: 17-212 SP**

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

Mr. Eichner recommended that the Board enter an Order adopting stipulation.

Motion by Ms. Myra Mazlin, seconded by Mr. James Dillard, all in favor, none opposed.

Riverwalk At Lago Mar HOA, Inc. (Riverwalk) **Case NO.: 17-215 SP**

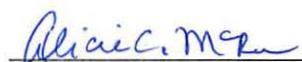
Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner recommended that the Board enter an Order adopting stipulation.

Motion by Ms. Myra Mazlin, seconded by Mr. James Dillard, all in favor, none opposed.

The meeting was adjourned by Ms. Lily Sayre at 11:34 a.m.

PREPARED AND SUBMITTED BY:



Alicia C. McRae, Clerk of the Board