

**BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD
MINUTES OF BOARD MEETING – JANUARY 25, 2018**

The Board meeting was called to order at approximately 9:45 a.m. on Thursday, January 25, 2018, by Vice-Chairperson, Lily Sayre.

The Clerk called roll and the following members were present:

Stuart Kaufman(appeared telephonically)
Lily Sayre, Vice-Chair
Karen Hodge-Kaestner
James Dillard

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

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.

Motion for approval of Minutes for December 07, 2017 by Ms. Karen Hodge-Kaestner, 2nd by Mr. James Dillard, all aye, none opposed.

Paul Eichner proceeded with the scheduled cases.

Wincast Arms North Condominium, Inc. **CASE NO.: 17-205 SP**
Mr. Eichner appeared on behalf of the Department; Christopher M. Reed, Esq. appeared on behalf of the Respondent.

Mr. Eichner advised the Board that the matter was up for status, that there was a violation for failure to pay the pool permit. The pool permit fee was not paid timely, but the payment was received after the hearing was held in December 2017. Presently the administrative fee and fine are outstanding. The Department does not have any objection if the Board would like to mitigate the fee or fine.

Mr. Reed advised that the correspondence was sent to the past management company and that the pool permit fee was paid immediately upon receipt.

Motion by Mr. James Dillard, to amend the previous order issued December 5, 2018 to mitigate the fee and fine to \$0.00 and that the stipulation fee in the amount of \$200.00 be paid by 2/8/2018; no second on the motion. Motion fails.

Discussion: Karen stated that it is the responsibility of the association to update their address.
Mr. Reed responded that they were unaware of the fees and once they received notification, the fees were paid immediately.

Ms. Sayre asked how the association received the notice. Mr. Reed was not sure, and stated that the property manager had received it from one of the board members possibly.

Mr. Eichner advised that the property manager received the complaint on 11/27/2018, which included the invoice, notice of violation, stipulation and stipulation agreement.

Ms. Lily Sayre passed the gavel and made a motion Ms. Lily Sayre to mitigate the fee to \$0.00 and \$500.00 fine to be paid by February 8, 2018, 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; Victoria Berrios appeared on behalf of the Respondent.

Ms. Berrios identified herself as the property manager for Prince George Condominium.

Mr. Eichner advised that Ms. Berrios contacted the legal office January 5, 2018. This matter came before the board December 07, 2017 for an unpaid permit and a re-inspection fee. Mr. Eichner advised that Nicolas Kellman confirmed that the payments were paid, but were applied to the re-inspection fees. Mr. Eichner advised that the administrative fee and fine are still outstanding and he would not object if the Board wanted to mitigate the fee and fine down to a stipulation fee of \$200.00.

Ms. Berrios advised that she made 2 payments, which she believed were to be applied to the pool and spa permits.

Mr. Dillard and Ms. Sayre had questions regarding the fees.

Mr. Kellman explained that the amount sent in was not enough to cover the permit fees and that the permit fees were not yet due, that is why they were applied to the re-inspection fees, which totaled \$150.00. The amount of \$150.00 would not have covered the permit fee of \$175.00.

Mr. Eichner suggested mitigation of the fees down to a stipulation fee of \$200.00.

Motion by Ms. Karen Hodge-Kaestner to amend the previous order and mitigate the administrative fee down to \$0.00, and that the \$500.00 administrative fine be paid by February 8, 2018, second by Mr. James Dillard, all in favor, none opposed.

Tonyelo Motel **CASE NO.: 18-010 SP**
Mr. Eichner appeared on behalf of the Department; Lisette Perazzelli appeared on behalf of the Respondent.

Mr. Eichner advised that this case was brought back for status. The Board was advised that the permit fee was satisfied, but the stipulation fee is still outstanding due to correspondence inadvertently being sent to the wrong address of 3rd avenue instead of 31st avenue. The demand letter sent by the legal office was sent to the correct address, but no response was received from the Respondent.

Ms. Lisette Perazzelli identified herself, and stated that she is helping her mother with the business due to her mother being sick and doing her best to manage the property. She stated that she made the payment as soon as she was served with the complaint. Ms. Perazzelli is requesting to have the stipulation fee waived.

Mr. Eichner recommended that the stipulation fee be waived to \$0.00 and dismiss.

Motion by Stuart Kaufman accepted Mr. Eichner's recommendation to waive the stipulation fee and dismiss the case, second by Mr. James Dillard, all in favor, none opposed.

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.

Ms. Andrea Katz took the stand and identified herself.

Mr. Eichner briefed the Board and advised that the matter was before the Board in December 2017 and read the order issued at that time, which included a re-inspection fee, a \$500.00 administrative fee and a \$ 500.00 administrative fine. Based on the findings, the Health Department does have jurisdiction over the matter and that the \$500.00 fee and fine are due on February 15, 2018. The Respondent was seeking mitigation.

Ms. Katz represented to the Board that she did not receive notice to appear or the order from the hearing. Ms. Katz confirmed that we have the correct address and Mr. Eichner advised that is where the notice was mailed.

Ms. Karen Kaestner proposed to amend the order entered December 7, 2017 waiving the \$500.00 fine and the \$500.00. The administrative fee of \$500.00 is due by February 15, 2018.

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

Sunpointe Springs Condominium Association, Inc. **Case No.:17-218 SP**

Mr. Eichner appeared on behalf of the Department; Carlos Vasquez appeared on behalf of the Respondent.

Mr. Eichner briefed the Board on the status of the pool. Mr. Eichner recommended two options to the Board; to ask Mr. Vazquez to stipulate that there is a violation or follow the normal procedure. Mr. Vasquez stipulating to the violations filed in the complaint would include closing the pool and maintaining the water chemistry and water clarity. That the matter could be continued and the board could defer assessing any fees or fines until the next hearing.

Mr. Vasquez agreed/ stipulated that the violations exist and that he agrees to close the pool by securing it with a "pool closed" sign. Mr. Vasquez explained the types of hardships the condo association is experiencing due to issues with the city. There are several bids to have work done on the pool.

Mr. Eichner recommended that the matter be set for status and that Mr. Vazquez be noticed and that he secure the pool as discussed.

Motion by Mr. James Dillard, Second by Ms. Karen Kaestner, all in favor, none opposed.

Mary Smith **Case No.: 18-008 SAN**

Mr. Eichner appeared on behalf of the Department; Ashley Smith appeared telephonically on behalf Mary Smith.

Mr. Eichner called Daryl Garsik to testify. Ms. Garsik identified herself for the record and was previously sworn in.

Mr. Eichner called the Respondent's granddaughter, Ashley Smith, as requested so that she may appear telephonically. Mr. Eichner advised Ashley Smith that she would be on speaker phone, and advised her of everyone in the room listening and that the phone call was being recorded. He asked if she would be representing Ms. Mary Smith. Ms. Ashley Smith confirmed that she would. Mr. Eichner advised her that she is not sworn in and therefore anything she says would not be considered testimony, but the Board may want to hear what she has to say.

Ms. Garsik was called to testify and identified herself for the record.

Ms. Garsik testified that she went to the property due to a complaint she received from Broward County waste water utility stating that waste water was spilling out into the front yard into a trench. She visited the property for the first time on November 30, 2017 and cited the homeowner for a sanitary nuisance regarding open sewage on the ground, which is a violation of F.S. 386.041- untreated waste... and 14-68 Broward County Code of Ordinances. The property is described as a single family home in a residential neighborhood. Ms. Garsik described what she saw when she arrived. The 2nd visit was on December 4, 2017. Mr. Eichner asked Ms. Garsik if she served the complaint. She advised that she had. The 3rd visit to the property was on January 8, 2018 and the violation still existed. Pictures taken were entered into evidence.

Ms. Garsik stated that she spoke to an adult on her first visit that informed her that there was a problem with the utility and they were unable to fix the problem. The 2nd visit Ms. Garsik had a conversation was with the homeowner when she served the complaint. The homeowner told her that they were trying to control the problem, which had been fixed previously. Her most recent visit was the day before the hearing and that she observed that the trench is now a puddle and that the cleanout is visible. Mr. Eichner asked her to define the difference between a trench and a puddle. Ms. Garsik stated that the shape changed, but the same condition exists. Ms. Garsik contacted the City of

Deerfield Beach regarding the issue, but she did not get a response. Mr. Eichner asked Ms. Garsik if she offered any resources to the homeowner, Ms. Garsik stated that she had. Mr. Eichner did not have any other witnesses.

Mr. Eichner asked if the Board wanted to hear from Ashley Smith. Ms. Sayre thought it would be helpful to hear from her. Mr. Eichner gave Ashley Smith the opportunity to speak.

Ashley Smith shared with the board that her grandmother has Alzheimer's disease and she forgets things. She advised that they have had numerous plumbers come out to fix the problem, but it keeps recurring.

Mr. Eichner asked Ms. Garsik to explain if there was a part missing from the plumbing or if there was a clog.

Ms. Sayre asked if the city was responsive to her request. Ms. Garsik stated that the city ruled out there being a sewer issue and that they advised the homeowner that they needed a plumber to fix the problem.

Mr. Eichner explained to Ashley Smith that the Board wants the problem to be corrected and wanted to know if she could have the problem rectified. Ms. Smith confirmed that she could.

Mr. Eichner stated that the he would like the Board to find that the Health Department proved its case, and impose a fine and fee and suggest waiving the fine and fee if the problem is fixed in a reasonable amount of time and to contact the inspector when complete for inspection. The trench be cleaned out and properly and then use lime and or chlorine to sanitize the area. Ms. Garsik is directed to reach out to the granddaughter and give her information for S.H.I.P.

Ms. Karen Kaestner asked questions of the granddaughter.

Ms. Kaestner then moved to accept the recommendation of Mr. Eichner, making a motion to have the violations abated by the end of the next business day and that the inspector re-inspect the property on Monday, January 29, 2018. That the matter be brought back for status on February 22, 2018, that an administrative fee and fine of \$500.00 each be imposed, subject to mitigation due by February 18, 2018. The Board shall retain 90 day jurisdiction, second by Mr. James Dillard, all in favor, none opposed.

Sunny Investments FL, LLC d/b/a Sunshine Garden Apartments **Case No.: 18-005 SP**

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

Mr. Eichner called Christina Edghill. Ms. Edghill confirmed that she was previously sworn in and that she served the complaint Mr. Boriz Ovrutsky on January 11, 2018. Mr. Eichner confirmed the facility address with Ms. Edghill.

Mr. Eichner advised the Board that Mr. Ovrutsky contacted our office the morning of the hearing to request a continuance. Our office requested that Mr. Ovrutsky send a fax or e-mail requesting a continuance prior to the start of the hearing. The correspondence was not received.

Ms. Edghill explained that this is an apartment complex, which is occupied. Ms. Edghill went over the violations of 64E-9. Ms. Edghill explained that the violations still existed on her 2 visits to the property. The flowmeter and pool certification violations were later corrected. The pictures taken by Ms. Edghill were entered into evidence.

Mr. Eichner asked the Board to find that the Department proved its case, that there are violations, the owner was properly served. Mr. Eichner recommended that the violations be corrected no later than February 2, 2018, that the inspector go out and re-inspect no later than February 7, 2018, that an administrative fine and fee of \$500.00 each are due by February 15, 2018 and that the matter be set for status at the next hearing of February 22, 2018. The Board maintain jurisdiction for 90 days.

Ms. Kaestner then moved to accept the recommendation of Mr. Eichner, second by Mr. James Dillard.

Prestige Commons **Case No.: 18-006SP**

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

Mr. Eichner called Laura Ramirez.

Ms. Ramirez testified that she visited the property on November 6, 2017 and a NOV was issued. She confirmed the property address and she explained that the violation was for a pool, which was due for its routine inspection. Ms. Ramirez explained the violations she observed. Ms. Ramirez confirmed that they were still in violation as of December 22, 2017 and she is not sure when the respondent came into compliance. As of January 11, 2018 when she went back to inspect, the respondent was in compliance.

Motion by Ms. Karen Kaestner to impose a \$500.00 administrative fee, a \$200.00 administrative fine due by February 15, 2018, that the matter be set for status on February 22, 2018 and the Board retain jurisdiction for 90 days, Second by Mr. James Dillard, all in favor, none opposed.

Atlantic Shores **Case No.: 18-007 SP**

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

Mr. Eichner called Christina Edghill to testify.

Ms. Edghill confirmed that the respondent was in compliance as of January 16, 2018.

Mr. Eichner advised that the matter was regarding a pool violation, that all violations are abated and that the respondent paid the stipulation fee of \$300.00. Mr. Eichner also went over the violations with the Board and then requested that the Board enter an order adopting stipulation.

Motion by Ms. Karen Kaestner, Second by Mr. James Dillard.

Pompano Greens **Case No.: 18-009 SP**

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

Mr. Eichner called Thu Le and she confirmed that she was not able to serve anyone at the address.

Mr. Eichner advised the Board that Ms. McRae sent the complaint via UPS to the owner and the Registered Agent MDE Property Investments, LLC. There is proof that the complaint was delivered to the Registered Agent. Mr. Eichner asked the Board to accept the service on the registered agent. Ms. Lily Sayre accepted service.

Thu Le confirmed that this violation was for failure to pay a permit fee. To her knowledge the fees had not been paid to date.

Mr. Kellman was called and advised that there were no fees paid to date.

Mr. Eichner asked that the Board find that there is a violation, recommended violations be corrected no later than February 12, 2018, a \$500.00 administrative fee and \$500.00 administrative fine due by February 12, 2018, the matter be set for status on February 22, 2018 and that the Board retain jurisdiction for 90 days.

Motion by Ms. Karen Kaestner, Second by Mr. James Dillard.

Northwood At Sunrise Lakes **Case No.: 18-011 SP**

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

The matter was continued for 30 days in order to obtain proper service.

Mr. Eichner requested a continuance for 30 days.

North Broward Christian School, **Case No.: 17-074 SAN**

Status- No payments received to date. 90 day jurisdiction retained. No action necessary.

Gold Choice Ballroom, Case No.: 17-083 SAN
Status- No payments received to date. 90 day jurisdiction retained. No action necessary.

The Professional United, Inc. Case No.:17-085 SAN
Status- No payments received to date. 90 day jurisdiction retained. No action necessary.

Blarney Castle, Case No.: 17-203 SP
Status- Permit fee received. The administrative fee and fine not received. 90 day jurisdiction retained.

Mr. Eichner introduced Mr. Sam Landol, Esq.

The meeting was adjourned by Ms. Lily Sayre at 11:58 a.m.

PREPARED AND SUBMITTED BY:



Alicia C. McRae, Clerk of the Board