

**BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD
MINUTES OF BOARD MEETING – NOVEMBER 16, 2018**

The Board meeting was called to order at approximately 3:35 p.m. on Friday, November 16, 2018 by Vice-Chairperson, Lily Sayre.

The following members were present:

Robert McColgan, Board Member
Ronesia Jenkins, Board Member
Karen Kaestner, Board Member
James Dillard, Board Member
Lily Sayre, Vice Chairperson

Also present were:

Andrij Susla, Esq., Attorney for the Department
Judi Elfont, Esq., Deputy Director for the Department
Clifford Friedman, Esq., Attorney for the Department
Anthony Vomero,
Samantha Elberg, Administrative Assistant
Patrick Jenkins, Director of Communicable Disease
Clifford Saieh, Environmental Specialist
Sabreena Ali, Environmental Health Assistant Administrator
James (Jim) Statton, Pest Control Expert (Florida Pest Control Center)
Israela Herskowitz, Respondent
Ronnie Herskowitz, Respondent
Ben Craigo, Esq. Broward County Attorney for the Board

Ms. Lily Sayre presided over the meeting and began by asking each member to state their name for the record, followed by swearing in the witnesses.

Ms. Herskowitz advised that Mr. Herskowitz was not in the room.

Statement to Respondents by Ms. Lily Sayre

Witnesses were sworn in by Samantha Elberg.

The County Attorney explained the board procedures.

Safe Harbor Assisted Living Resort

Case No.: 18-112 SAN

Mr. Susla appeared on behalf of the Department; Israela, Ronnie Herskowitz and James Statton of Florida Pest Control Center appeared on behalf of the Respondent.

Andrij Susla Esq. introduced the matter as the State of Florida, Department of Health, Broward County v. Safe Harbor Assisted Living Resort - Case No. 18-112 SAN and read the full complaint.

Mr. Susla called Patrick Jenkins to testify. Mr. Susla asked Mr. Jenkins to state and spell his name for the record along with his position, his duties at DOH and amount of time employed at DOH.

Mr. Jenkins stated and spelled his name for the record, stated his position as the Director of Communicable Disease, employed with the DOH for about 13-14 years, followed by his responsibilities at DOH.

Mr. Susla asked Mr. Jenkins if bedbugs are a public health risk.

Mr. Jenkins replied that bedbugs are a public health risk because of the vulnerability of the population in certain places such as nursing homes/ ALFs. Intense scratching opens wounds, that cause secondary or super infections, like MRSA and STAPH infections that can cause death.

Mr. Susla asked Mr. Jenkins how bedbugs feed.

Mr. Jenkins responded that they get under the dermal layer of the skin and feed on the blood.

No further questions from Mr. Jenkins.

Mr. Susla called Anthony Vomero to testify. Mr. Susla asked Mr. Vomero to state and spell his name for the record along with his position, his duties at DOH and amount of time employed at DOH.

Mr. Vomero stated and spelled his name for the record, stated his position as Environmental Health Administrator employed with DOH for 15-1/2 years followed by his responsibilities at DOH.

Mr. Susla asked Mr. Vomero how the inspectors are trained to inspect for bedbugs.

Mr. Vomero replied that the inspectors are trained from the Georgia Division of Public Health Bedbug Handbook, which is recognized by the central office in Tallahassee and distributed to all County Health Departments.

The Handbook was entered into evidence as Exhibit "B" accepted by Ms. Sayre.

Mr. Susla asked Mr. Vomero to describe the type of training provided to the inspectors based on the Manual being used.

Mr. Vomero replied that they hold a meeting and go over all sanitary nuisances that they may come across in the field. the Georgia Division of Public Health Bedbug Handbook is used to train the inspectors on how to identify bedbugs and what to look for when out in the field.

No further questions from Mr. Vomero

Mr. Susla called Clifford Saieh to testify and asked him to state and spell his name for the record along with his position, his duties at DOH and amount of time employed at DOH.

Mr. Saieh stated and spelled his name for the record, stated his position as Environmental Specialist II, employed with the DOH for 3 years followed by his responsibilities at DOH, which is to conduct inspections and make sure that facilities permitted by the Department are in compliance with the state and county codes.

Mr. Susla asked Mr. Saieh if he had been trained on how to inspect for bedbugs.

Mr. Saieh replied that he had been trained and provided a copy of the training material as reference.

Mr. Susla asked Mr. Saieh to show the Board what bedbugs look like in the manual and how find and identify them. Mr. Saieh provided references and protocol on how to treat bedbugs.

Mr. Susla asked if he had inspected and cited other assisted living facilities for bedbugs.

Mr. Saieh stated that he had cited about 8 other facilities for bedbugs.

Mr. Susla asked about how long it took for remediation of the bedbugs.

Mr. Saieh replied that it took approximately 2-3 months for the depending of the method of treatment

Mr. Susla asked Mr. Saieh if he was familiar with Safe Harbor Assisted Living Resort.

Mr. Saieh replied “yes” because he conducted their inspections prior to the new owners.

Inspection reports entered into evidence as Composite exhibit “A”. Accepted by Ms. Sayre.

Mr. Susla asked Mr. Saieh when he first went out to inspect the facility. Mr. Saieh stated that it was on July 26, 2018 when a complaint was called in.

Mr. Susla asked Mr. Saieh if he was aware of any other inspector(s) that had conducted an inspection of the facility prior to his inspection on July 26, 2018.

Mr. Saieh replied “yes”. Mr. Saieh testified that an inspector mentioned that bedbugs were present, but he was not sure of the outcome.

Mr. Susla asked the Board to refer pages 35-36 in the packet known as exhibit “A”.

Mr. Saieh explained that page 36 was the Notice of Violation issued confirming that the complaint was valid and page 35 was the actual inspection report, related to violation #27-infestation/presence. The comments read that dead and live bedbugs were observed in client’s room 5&6, which resulted in an unsatisfactory inspection.

On August 9, 2018 Mr. Saieh re-inspected the property, which resulted in an unsatisfactory inspection. Mr. Saieh requested receipts from the owner showing that pest control was taking place. He read the comments to the Board, which was referenced on page 37-38.

On August 23, 2018 the facility received another unsatisfactory inspection. Mr. Saieh read the comments and advised that the receipts were still pending.

On September 13, 2019, Mr. Herskowitz requested an extension via e-mail, which was read by Mr. Saieh. The extension for the kitchen issues were extended until October 18, 2018 and the extension for the bedbug issue was extended until November 1, 2018. Mr. Saieh advised Mr. Herskowitz that the matter would be referred to legal if not satisfactory in addition to the plan layout outlining the next steps by September 27, 2018. Mr. Saieh testified that Mr. Herskowitz provided the plan via e-mail, which he read to the Board.

On November 1, 2018 the facility received another unsatisfactory inspection. Mr. Saieh observed live bedbugs at the time of the inspection. The facility did not provide any receipts as requested. Mr. Saieh issued another Notice of Violation and took pictures of what was observed, referenced on page 22 of the packet known as Exhibit “A”.

On November 9, 2019 and November 13, 2018, the facility received unsatisfactory inspection which resulted in the matter being referred to the Legal Department.

On November 15, 2019 a complete inspection was performed. Mr. Saieh explained the violations and what was observed. Violation #6-temperature supply, #17-walls, floors AC vents dirty and leaking water, outlet covers missing, #21 exposed lightbulbs, #27 infestation/presence, #29 mattresses in disrepair. Mr. Saieh stated that clients were present in rooms with dead and live bedbugs on the floor and on the bed. Pictures were provided explaining what Mr. Saieh observed. Mr. Saieh advised that he notified the facility managers regarding the infestation issue.

The video taken at the facility on 11/9/2018 was presented to the Board as Mr. Saieh explained what he observed.

Mr. Susla asked the Board Attorney what the procedure is when presenting the video and entering it into evidence.

The Board Attorney advised that a copy of the video is kept with the Clerk of the Board and asked if the Respondent had any objections to the video.

Mr. Herzkowitz stated that it was no way to confirm that the video was taken at his facility as there is no time stamp or other identifying information.

Mr. Saieh advised that the phone has GPS tracking and will identify the place where the pictures were taken.

The Respondent's objection was noted for the record.

Mr. Susla Asked if he suggested that patients be moved. Mr. Saieh advised that he spoke to Ms. Herskowitz regarding that issue.

Mr. Susla refers to page 30 pertaining to the remediation plan that outlines each part of the treatment plan and Mr. Saieh advised that the treatment plan was not being carried out by the Respondent.

Page 37-38 of the packet outlines the treatment plan and asked Mr. Saieh if any direct efforts were made to remediate the problem.

There were no further witnesses from DOH and rests its case.

The Representative from Safe Harbor Assisted Living Resort did not have any cross examination of the witnesses.

Mr. Herszkowitz stated that they have owned the facility for 4 years and that the infestation is a difficult issue to deal with.

Mr. Herzkowitz stated that his name for the record and stated that he is the husband of the owner.

Mr. Herzkowitz planned to present the Board with their most recent satisfactory inspections by AHCA and the Department. Mr. Herzkowitz stated that the issue began in July and that the infestation issue does not constantly exist. That they are doing the best they can to alleviate the issue.

He called his first witness, Jim Statton, the pest control specialist. Mr. Statton stated his name for the Board. He stated his background.

He addressed some of the things that were previously stated in terms of the length of time it takes to get rid of bedbugs. He stated that pest control can get rid of bedbugs, but he can't prevent them from coming back. He went through the process of what bedbugs do and the process of elimination. He confirmed that the owners were trying to get rid of the bedbugs. He added that moving the residents from an infested room or area does not help with elimination of bedbugs because they move about on things and people. They do not have feet. They do not travel into electrical socket or vents...

Ms. Ronenia Jenkins asked if there was documentation to show substantiate what rooms were treated for bedbugs. The technician's report was provided.

A copy of the technician's report was entered into evidence.

Mr. James Dillard asked Mr. Statton if he had the treatment plan. Mr. Statton stated that he didn't have it with him, but he could provide 1 within a day.

Mr. Herzkowitz stated that he keeps a log of the for AHCA and it is up to date.

Discussion between Mr. Dillard and the owner of the facility and the pest control expert.

Recess until 5:25.

Discussion continued between Mr. Dillard and the Pest control expert. A detailed correction plan was requested. The issued is 95% under control per the pest control expert and can be controlled within 45 days.

Mr. Herzkowitz advised that there is currently no infestation presence.

Ms. Karen Hodge states her concerns.

Mr. Herzkowitz advised that he did not have any additional witnesses, nor did he want to cross examine any of the witnesses.

Recommendation: That the facility have a tight action plan with verified deadlines. A proposed order was drafted for consideration by the Board.

Ms. Judith Elfont suggested that the order state that no patients be in bed with bedbugs.

Recess.

Meeting called back to order by the Chairperson.

Ms. Elfont also recommended that the administrative fee and fine be imposed.

Ms. Karen Kaestner accepted Counsel's recommendation and finds that there is a violation of the Florida Statute, Florida Administrative Code and Broward County Code of Ordinances, that the Board enter an Order imposing an administrative fee of \$500.00 and administrative fine of \$500.00 each to be paid by November 30, 2018, that the facility be inspected twice per month, with a status on December 6, 2018.

Second by Mr. James Dillard, All in favor, none opposed.

Meeting was adjourned by Ms. Lily Sayre

PREPARED AND SUBMITTED BY:



Alicia C. McRae, Clerk of the Board