

**CITY OF FORT LAUDERDALE
 NUISANCE ABATEMENT BOARD MINUTES
 CITY HALL, CITY COMMISSION CHAMBERS, 1ST FLOOR
 100 NORTH ANDREWS AVENUE
 THURSDAY, FEBRUARY 14, 2008 AT 7:00 P.M.**

<u>Members</u>	<u>Attendance</u>	Cumulative Attendance 3/07 through 2/08	
		<u>Present</u>	<u>Absent</u>
Douglas Reynolds, Chair	P	9	1
Harry MacGrotty, Vice Chair	P	9	1
Caldwell Cooper	A	7	3
Patricia Mayers	P	10	0
David C. Svetlick	P	7	3
Laurie Watkins, Alternate	P	9	1

Staff Present

Joyce Hair, Board Clerk
 Bruce Jolly, Board Attorney
 Lt. Wade Brabble, Liaison
 Scott Walker, Assistant City Attorney
 Detective Todd Bunin, Ft. Lauderdale Police
 Hilda Testa, Recording Clerk, Prototype, Inc.

Guests

Louis Ugaz	Tania Ouaknine
Richard Boose	Nikolas Kleidis
Patricia Dressler	Pam Roloff
Lee Phillips	Narinedat Roy

1. Call meeting to order; Pledge of Allegiance

The meeting was called to order at 7:03 p.m. and the Pledge of Allegiance was recited.

2. Roll call; witnesses sign log; swearing in

Ms. Testa called roll and determined a quorum was present.

Witnesses were sworn in.

3. Approval of minutes for January 2008

Motion made by Ms. Mayers, seconded by Mr. MacGrotty, to approve the minutes of the Board's January 2008 hearing. In a voice vote, the motion passed 5 - 0.

4. Case Number 07-11-10, 519 Northwest 23 Avenue – The Parisian Motel

- **Notice of Status Hearing**

Lt. Brabble informed the Board that the property was now on appeal to the Court system.

Mr. Jolly reminded the Board that at the previous hearing, the respondent's Motions for a Stay and a Continuance had both been denied. The appeal had been filed, and the hearing on the respondent's renewed Motion for a Stay had been held the previous Tuesday. The Motion for a Stay had been granted in part and denied in part. Mr. Jolly explained that the effect of the Order was that this Board could take no action regarding enforcement. Items 2 and 4 had been Stayed in their entirety. Regarding all other items, while the Board retained jurisdiction and while the appeal was pending, fines for non-compliance could continue to accrue, but no further Orders could be entered to determine the fines or to initiate enforcement by way of lien on the fines.

Mr. Jolly had spoken with Mr. Ugaz, the owner's attorney, and informed him that the Board would take no new action this evening; Lt. Brabble would report the status of all items except 2 and 4 to the Board. Mr. Ugaz believed all items other than 2 and 4 were complied.

Chair Reynolds asked why the Court had made the exceptions for items 2 and 4. Mr. Jolly explained that the Court had indicated that the expense to make those adaptations would cause "harm which could not be undone if the petitioner were ultimately to prevail in her appeal." Mr. Jolly reported there was no specific time frame for the Court to make its determination. The next stage was for the Judge to issue an Order on the Writ. He could dismiss it, or issue an Order to show cause. Mr. Jolly stated this could require the City to file a response and the Court would then rule. A hearing might be conducted as well.

Mr. Jolly intended to wait 30 days and if he heard nothing from the Court by then, he would initiate further action, such as a status hearing.

Mr. Ugaz presented a copy of Judge Goldstein's Order, and clarified that his request for a Stay had been granted for items 2, 4, 5 and 6. Mr. Jolly agreed this was correct. Mr. Ugaz believed the Board could therefore not discuss these issues at this hearing.

Mr. Ugaz reported a Stay had also been granted for items 10 and 11 regarding the assessment of any fines or costs. Mr. Ugaz had filed a Writ to the Circuit Court, which he said could be treated as an appeal or as a Writ of Certiorari. He stated the Judge had instructed the attorneys at the hearing not to discuss any of the items pending adjudication of Mr. Ugaz's Writ.

Mr. Ugaz remembered that at the previous hearing, Lt. Brabble had testified only two issues were not complied: the production of the tapes and the production of room receipts. These items had been Stayed, and Mr. Ugaz felt they could therefore not be discussed.

Mr. Jolly did not agree, and felt the Board could hear a status report from Lt. Brabble regarding the items that were not Stayed. He pointed out that if the items were in compliance, there was no issue. Mr. Jolly advised the Board to consider Mr. Ugaz's renewed Motion for a Stay before taking any other action. Chair Reynolds asked if it would be helpful for the Board to know the property's status before ruling on Mr. Ugaz's Motion for a Stay. Mr. Jolly informed him that hearing an update was not a legal issue, and if the Board felt it would help in their decision-making, he recommended they hear it.

Mr. Ugaz objected on the grounds he feared this would violate the Circuit Court Order. Mr. Jolly said he need not worry about this; Mr. Jolly had advised the Board.

Lt. Brabble reported the following items were now in compliance: 1, 3, 7 and 9. He stated he could not adequately address item 8 now. Mr. Ugaz believed that as a matter of saving his client fees and costs, they should postpone what was pending until after his Writ was adjudicated. If any issues remained, he could return to the Board to deal with them.

Mr. Walker felt the Board had the option to grant or deny the Stay, and said he assumed a neutral position. Mr. Jolly reminded the Board that no enforcement action could be taken. He recommended the Board not grant the Stay; then the Board could receive periodic status hearings on non-stayed items as long as jurisdiction was retained.

Mr. Ugaz stated he was challenging the constitutionality of how the Board's Order was framed, and "if these items get discussed here today and you make a ruling on them, you're going to be stripping the Trial Court from its jurisdiction in dealing with those items and the constitutional arguments that I made against enforcement of those items."

Motion made by Mr. MacGrotty, seconded by Ms. Mayers, to allow the owner to renew the Motion to Stay this matter before the Board. In a roll call vote, the vote was as follows: Ms. Watkins – yes; Mr. Svetlick – no; Ms. Mayers – no; Mr. MacGrotty – no; Chair Reynolds – no. **Motion failed** 1 – 4.

Lt. Brabble reported there had been 10 calls for service over the past six months, two of which were nuisance-related. This represented a decrease in activity. In the past month, there had been one call for service and this was not nuisance-related.

Lt. Brabble requested a status conference on March 13, 2008.

Mr. Ugaz objected to future discussion of the items.

5. Case Number 07-12-11, 1801 West State Road 84 – Motel 6

- **Notice of Status Hearing**

Lt. Brabble informed the Board that the property was now in compliance. Over the past six months, there had been 91 calls for service, five of which were nuisance-related. In the past month, there had been 18 calls for service, none of which was nuisance-related. Lt. Brabble stated this was a “relatively significant” reduction from previous months.

Lt. Brabble stated the property was in compliance and the company representative possessed a receipt for having paid the fees.

Mr. Richard Boose, area manager for Motel 6, introduced himself and had no additional comment.

Lt. Brabble stated for the time being, the City only wanted to maintain jurisdiction.

6. Case Number 07-10-09, 1301 Northeast 4 Avenue - Coastal Gas Station

- **Notice of Status Hearing**

Lt. Brabble reported that all items except item 7, the requirement for a security guard from 4 p.m. until closing, were in compliance. In the past six months, there had been 26 calls for service, three of which were nuisance-related. In the past month, there had been three calls for service, only one of which was nuisance-related.

Mr. Nikolas Kleidis, owner, explained that the lessee could not afford to hire a security guard, and added, “He doesn’t make enough to pay the rent.”

Ms. Patricia Dressler, Mr. Kleidis’ fiancée, felt it was unrealistic to ask the merchant to incur an expense that would create a hardship. She said people laughed at the security guards at convenience stores and only respected Police, a civic association member or a Raider. They were aware that a security guard had no authority.

Chair Reynolds opened the public hearing.

Ms. Pam Roloff, neighbor, said there had been great improvement at the property. Since there were fewer people loitering near the property, she did not believe a security guard was necessary and felt they could wait 30 days to reassess the situation.

As there were no other members of the public wishing to speak on this item, the public hearing was closed.

Mr. Walker reminded the Board that the previous month they had delayed taking any action. He thought the Board should make a decision on the issues.

Mr. Jolly said the Board could abate the requirement for the security guard if they wished, or they could take further action for non-compliance.

Mr. Walker asked the Board to hold a status hearing next month to keep apprised of the situation at the property. Ms. Watkins wanted to monitor the property. Lt. Brabble recommended another status hearing in 60 days.

Mr. Svetlick asked Mr. Jolly if the Board could easily reinstate the security guard requirement in the future if they rescinded it now. Mr. Jolly said as long as the Board retained jurisdiction, they could reinstate the provision as soon as the case was heard. Chair Reynolds pointed out that if they rescinded the requirement, the Board could not impose a fine dating back to the original violation date, but if they deferred a determination, they could. Mr. Jolly agreed.

Motion made by Mr. MacGrotty, seconded by Ms. Watkins, to defer action on item 7 for 60 days, to the Board's April meeting. In a roll call vote, motion passed 5 – 0.

7. Case 07-09-07, 1300 Northwest 4 Avenue – Citgo Gas Station

Owner: Circle K Stores

- **Notice of Status Hearing**

Lt. Brabble stated the property was in compliance. In the past six months there had been 176 calls for service, 35 of which were nuisance-related. In the past month, there had been 20 calls for service, two of which were nuisance-related. He attributed this reduction to Citgo's compliance efforts, including the installation of fencing and lighting, and the property cleanup.

Ms. Lee Phillips, attorney for Circle K, said they had worked diligently to comply, and she was glad to hear their efforts were paying off.
Chair Reynolds opened the public hearing.

Ms. Pam Roloff, neighbor, reported there was a drug house near both gas stations and she wanted the Police to park a car in the vicinity and leave it there. She believed this would greatly reduce the calls for service at the gas station. Ms. Roloff agreed that the situation had improved at the Citgo.

As there were no other members of the public wishing to speak on this item, the public hearing was closed.

Lt. Brabble requested no further status conferences at this time.

**8. Case 07-06-05, 800 Northeast 10 Terrace – Caribbean Food Store
Owner: Roy and Roy Inc.**

- **Notice of Status Hearing**

Lt. Brabble reported the property was in compliance except for the requirement for a bonded, licensed security guard. In the past six months, there had been 35 calls for service, three of which were nuisance-related. In the past month, there had been 5 calls for service, none of which was nuisance-related. This was a significant decrease.

Mr. Walker noted the property was not complied, and the Board had requested the case be brought back this month. Mr. Walker remarked on the “astronomical change” in the calls for service. He noted that employees wearing “Security” Tee shirts were present on the property, and he believed their presence was effective.

Mr. Narinedat Roy, owner, said they had made major changes, and the drug dealers knew the owners were working with the Raiders and the Police. Mr. Roy believed the exterior cameras, the employee security patrol in the parking area and the Police car visits had made the difference.

Chair Reynolds opened the public hearing. As there were no members of the public wishing to speak on this item, the public hearing was closed.

Motion made by Ms. Mayers, seconded by Mr. MacGrotty, to defer the case to the Board’s April meeting. In a roll call vote, motion passed 5 – 0.

9. Board Discussion

Regarding the Green Store, 2162 NW 6 Street, Lt. Brabble said it had come to their attention that the items that were presented to the Board were for Viagra, which was not a controlled substance, which the statute for Nuisance Abatement required for action. Mr. Walker said he had thought items for which a prescription was required were

controlled substances, but not all of them were, so the Board did not have jurisdiction. Mr. Walker asked the Board to vacate the Order. Mr. Jolly noted that the Order had not been entered, so the Board only needed to vacate their prior vote.

Motion made by Mr. MacGrotty, seconded by Ms. Mayers, to vacate the Board's Order regarding Case Number 07-12-12, 2162 Northwest 6 Street – The Green Store. In a roll call vote, motion passed 5 – 0.

Lt. Brabble reported that 636 NW 14th Terrace was now off jurisdiction from the Board. The property was under complete renovation and was 100% turned around from one year ago.

Chair Reynolds reported that Mr. Cooper and Mr. MacGrotty were both leaving the Board. He presented Mr. MacGrotty with a plaque thanking him for his years of service.

Thereupon, with no additional business to come before the Board, the meeting adjourned at **7:56** p.m.

[Minutes prepared by J. Opperlee, Prototype, Inc.]