

**CITY OF FORT LAUDERDALE
 NUISANCE ABATEMENT BOARD MINUTES
 CITY HALL, CITY COMMISSION CHAMBERS, 1ST FLOOR
 100 NORTH ANDREWS AVENUE
 THURSDAY, JUNE 12, 2008 AT 7:00 P.M.**

<u>Members</u>	<u>Attendance</u>	Cumulative Attendance 3/08 through 2/09	
		<u>Present</u>	<u>Absent</u>
Douglas Reynolds, Chair	P	3	0
Laurie Watkins, Vice Chair	P	2	1
Linda Dawkins [Alternate]	P	2	0
Pat Mayers	P	3	0
David C. Svetlick	P	3	0
Nathaniel Wilkerson	A	0	3

Staff Present

Joyce Hair, Board Clerk
 Bruce Jolly, Board Attorney
 Lt. Wade Brabble, Liaison
 Scott Walker, Assistant City Attorney
 H. Testa, Recording Clerk, Prototype, Inc.

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1. Call meeting to order; Pledge of Allegiance

The meeting was called to order at 7:00 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 May 2008

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

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- 4. Case Number 07-11-10**
519 Northwest 23 Avenue – The Parisian Motel
Owner: Tania Ouaknine
- **Notice of Status Hearing**

Lt. Brabble informed the Board that there had been six calls for service to the property in the past six months, none of which was nuisance related. In the past month there had been two calls for service and these were not nuisance related. Lt. Brabble added that there had been no other actions to report on the past month and if the stay were still in place, there was no recommendation from the City.

Mr. Jolly reported that the City was preparing a motion for relief from the stay.

Mr. Luis Ugaz, attorney for the owner, agreed to comply with the City's terms.

Lt. Brabble requested a status conference be scheduled for July 10, 2008 and Chair Reynolds agreed.

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- 5. Case Number 07-10-09**
1301 Northeast 4 Avenue – Coastal Gas
Owner: Nicholas Kladis
- **Notice of Status Hearing**
 - **Notice of Evidentiary Hearing**

Lt. Brabble informed the Board that there had been 22 calls for service to the property in the past six months, four of which were nuisance related. In the past month there had been six calls for service, none of which was nuisance related.

Lt. Brabble reported that the property still had not complied with Item 7 on the order – the requirement for a security guard. The property's jurisdiction was scheduled to end in December 2008.

Lt. Brabble stated on March 16, Officers Santiago and Kelly made an arrest on the premises for crack cocaine possession; on April 4, Detective Coffin made an undercover buy of crack cocaine on the property, and on April 22, Detective Dusenbery made a controlled buy of crack cocaine at the property using a confidential informant.

Lt. Brabble confirmed for Chair Reynolds that the City wanted to re-establish jurisdiction for an additional year based on the three new events.

Mr. Walker stated he had received no calls from the owner, but wanted to know if the owner agreed to install the cameras and pay the additional fines. He confirmed that the owner had received copies of all paperwork, warning letters and notices of the hearings, and he had never contacted the City regarding these.

Mr. Nikolas Kaldis, owner, informed the Board that the tenant would provide his own business financial records to the City.

Mr. Syed Ali, tenant, provided the business' financial papers for the past six months to the Board. He explained that the \$100,000 per month income was mostly from gasoline sales. He stated he could not currently afford to pay himself, so he could not afford a security guard. Mr. Ali said he only made a \$.03 to \$.05 profit on each gallon of gas, and if a customer used a credit card, he made no profit. He also made approximately \$250 per week in lottery commissions. Mr. Ali stated he had been on the premises from four to twelve o'clock and wore the "Security" T-shirt and cap.

Mr. Walker explained that the City wanted to amend the existing order based on the new offenses at the property. Lt. Brabble confirmed that the City wanted Internet availability added to the existing camera system on the property.

Mr. Ali insisted that the drug deals occurred in the gas station area, not in the store. The deals were pre-planned through cell phones and the actual transactions took only seconds on the premises. He pointed out the difficulty of catching and stopping this type of activity. Mr. Ali agreed to provide Internet availability for the cameras on the premises. He also agreed to pay the \$472.36 fine.

Detective Dusenbery testified that on April 23, 2008, he was working as a detective in the Major Narcotics Unit. On that date, he took the suspect, Mr. Ronnie Brown, into custody. Prior to that, he made four controlled purchases on the premises in April. During these purchases, the informant asked Mr. Brown to meet at his residence directly behind the Coastal gas station, but Mr. Brown had assured him that "we know the clerks; everything's fine." The fourth purchase was actually made at the gas station.

When the informant met Mr. Brown at the gas station, Detective Dusenbery stated Mr. Brown made it appear as though he was working under the hood of his car to make the drug transaction. During this transaction, Detective Dusenbery stated he had not seen any employees outside the store wearing "Security" shirts or hats. He confirmed that the transaction occurred during daylight hours on April 22, 2008. Mr. Walker pointed out that this occurred after the City had jurisdiction over the property and there should have been security.

Upon questioning from Mr. Kladis, Detective Dusenbery stated the buy took place outside the store, near the gas pumps. Detective Dusenbery reiterated that the drug seller claimed to know the clerk at the store. Mr. Kladis requested a copy of the video so he could determine which clerk was working at this time.

Detective Coffin testified that on April 4, 2008 at approximately 11 p.m., he was working under cover, posing as someone wanting to purchase crack cocaine. He made contact on the gas station property with a black male, who flagged down another black male who came onto the property and they completed the deal. Detective Coffin stated both men had been taken into custody. He had not noticed any employees outside the store when he was there. Detective Coffin confirmed he was wearing a listening device during this purchase.

In response to Mr. Walker's questions, Detective Coffin stated the gas station property was a common foot traffic cut through at a busy intersection. He said it had only taken 45 seconds after he entered the property before he was approached by the defendant.

Motion made by Ms. Watkins, seconded by Ms. Mayers, to determine the Board had jurisdiction over the property as a nuisance, based on the evidence presented, under the Nuisance Abatement statute.

Mr. Jolly advised that if the Board determined that the property had not complied with the Board's previous mandate, they could amend their previous order to require something further. They also had the power to impose the fine for the period of non-compliance.

Mr. Walker confirmed that this action had been brought under the old case number. He asked the Board to find the property not in compliance, and he wanted new conditions added to the old order.

Ms. Watkins withdrew her motion.

Motion made by Ms. Watkins, seconded by Ms. Mayers, to find the property was not in compliance with the prior order entered by the Board. In a roll call vote, motion passed 5 – 0.

Lt. Brabble stated the additional recommendations for the property: To strike #7 from the original order – the requirement for a security guard - and to add the following.

11. The owner is assessed 50% (\$472.36) of the investigative costs to be paid within (30) days. The Board will waive the balance (\$472.36) of the investigative costs if the owner complies with the specified time frame(s). If the owner fails to

comply within the specified time frame(s), the remaining 50% of the investigative costs will be assessed. (Total costs \$944.72)

12. A minimum of two employees will be on the premises during all hours of operation from dusk to closing. These employees will wear clothing that clearly identifies them as Coastal Gas Station employees. Said employees will conduct a parking lot patrol at half hour intervals.
13. The owner will provide the Police Department the required TPC/IP (aka: IP address) to access the video/data being transmitted from the camera(s) for the purpose of reviewing the information. This access must be accessible to the Police Department twenty four (24) hours a day, seven (7) days a week, 365 days a year.
14. The data/video obtained from the video system can be used by the Police Department for any purpose they desire relevant.
15. The owner will provide the Police Department any required Passwords and or member/log-in names or numbers to access the account.
16. The owner will notify the Police Department immediately if there are any changes to the IP, Passwords, Member/log-in name.
17. The owner will notify the Police Department immediately if any of the camera(s) are moved or relocated.
18. The Nuisance Abatement Board will retain jurisdiction over the property for the period of (1) year June 2009.

Mr. Jolly confirmed the Board could extend their jurisdiction over a property.

Lt. Brabble explained that employees would wear "Coastal Gas Station" shirts instead of security shirts because they believed this would be safer for employees. They felt the presence of staff on the property would be sufficient. Lt. Brabble explained that the new Item 11 replaced Item 7 from the original order.

Motion made by Ms. Watkins, seconded by Ms. Mayers, to assess the full fine amount stated in Recommendation Item 7 of the original order. In a roll call vote, motion passed 5 – 0.

Lt. Brabble described the location of the video cameras outside on the property.

Chair Reynolds asked Mr. Kladis about expenses on the property. He mentioned taxes and maintenance, which resulted in a net profit of approximately \$7,000 per month. Chair Reynolds wondered why Mr. Kladis could not afford a security guard.

Motion made by Mr. Svetlick, seconded by Ms. Watkins, to adopt the recommendations made by the City. In a roll call vote, motion passed 5 – 0.

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6. Case Number 08-02-01
200 West Sunrise Boulevard – Star Food Mart
Owner: Sadco Properties Inc.

- **Notice of Evidentiary Hearing**

Lt. Brabble reported that one of the witnesses for this case was not present. The City was not prepared to move forward, and Mr. Walker requested a continuance.

Mr. Norman Kent, attorney for the respondent, objected to the request for a continuance. He noted that the case had been on the Board's agenda three times and had been delayed twice because proper notice had not been made by the City. Mr. Kent pointed out to Mr. Jolly that even though he had stated in the past that only the property owner must be notified of the hearing, this tenant had been named in the sworn complaints and should therefore be noticed.

Mr. Kent stated a continuance now was "fatally defective, because now you've gone beyond the six-months within the jurisdictional perimeters with which a complaint can be alleged, since these allegations involve offenses that occurred on December 19 and then January 2." Mr. Kent continued that Mr. Jolly had informed him there was no manual of rules and procedures for the Nuisance Abatement Board, so he was "at a bit of a loss to know how this evidentiary hearing is going to be conducted."

Mr. Kent said he wanted the right to cross examination the City's witnesses and also the right to subpoena his own witnesses. Mr. Kent sated he wanted to subpoena several other officers, obtain a copy of the recording and be given unlimited Board discovery.

Mr. Kent stated, "I do not agree to a continuance; I think it's totally inappropriate and improper. I object to this hearing being conducted. I move that it be dismissed. Thank you very much."

Mr. Walker referred to the previous month's minutes, and noted that the Board had granted Mr. Kent a continuance the previous month. Mr. Kent reiterated that he objected to any continuance today.

Mr. Walker pointed out that notices of today's hearing and April's hearing were sent to Dale's Tires and to the store. Lt. Brabble confirmed that no correspondence was specifically, personally addressed to the owner, Mr. Kahn, but correspondence was sent to the store and signed for.

Chair Reynolds reminded Mr. Kent that the previous month, when he requested the continuance, he stated he was willing to waive the 6-month requirement. Mr. Kent said he had only offered to waive it because the City was concerned that granting the continuance mean that the June hearing was one day past the six-month point.

Lt. Brabble confirmed that since January 11, 2008, there had been no additional violations at the property. Mr. Walker stated the property had not complied with the City's request for the IP address access.

Mr. Kent pointed out that the owner had taken steps to comply and to prevent future offenses at the property, and he wondered why the City was seeking a continuance instead of a dismissal.

Motion made by Ms. Watkins, seconded by Ms. Mayers to continue this case to July 10, 2008. In a roll call vote, with only Chair Reynolds in favor, motion **failed** 1 - 4.

Mr. Walker admitted the property had improved since the start of the process, and the owner had followed the City's recommendations, except for the IP address access.

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10. Board Discussion

Thereupon, with no additional business to come before the Board, the meeting adjourned at 8:07 p.m.

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