

**CITY OF FORT LAUDERDALE
 NUISANCE ABATEMENT BOARD MINUTES
 CITY HALL, CITY COMMISSION CHAMBERS, 1ST FLOOR
 100 NORTH ANDREWS AVENUE
 THURSDAY, SEPTEMBER 11, 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	6	0
Laurie Watkins, Vice Chair	A	3	3
Linda Dawkins [Alternate]	P	4	1
Pat Mayers	A	5	1
David C. Svetlick	P	6	0

Staff Present

Joyce Hair, Board Clerk
 Bruce Jolly, Board Attorney
 Det. Joel Maney, 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 August 2008

Motion made by Mr. Svetlick, seconded by Ms. Dawkins, to approve the minutes of the Board's August 2008 hearing. In a voice vote, the motion passed 3 - 0.

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

Mr. Walker stated this was a status conference and asked Mr. Jolly to provide an update.

Mr. Jolly reported the petition for the writ of certiorari was at issue. The petition had been filed, and an order was entered prior to the last meeting requiring the City to file a response. The response had been filed and was pending before Circuit Judge Gardner. Four to five months ago a Stay was issued when the petition was filed. A Stay was ordered and it was assigned to Judge Goldstein. Judge Goldstein had retired and the case was reassigned to Judge Gardner. Nothing had happened on the case so a motion to lift the Stay had been filed so enforcement proceedings could go forward. This hearing had been scheduled for today, but Judge Gardner was unavailable today and the case had been assigned to another judge. The petitioner did not arrive for the hearing on time and the new judge, Judge Tudor, said he was not here it. It would therefore be reset for hearing.

Mr. Jolly said the order the Board had entered contained 12 conditions but the Stay order only addressed items 2, 4, 5, and 6. He took that to mean that items 1, 3, 7, 8, 9, 10 and 11 were enforceable. Mr. Jolly advised that notice of the next status conference should recite any existing violations for those items that the Board could consider.

Chair Reynolds asked how the Stay affected the Board's jurisdiction. Mr. Jolly was not sure, and suggested the Board consider carrying jurisdiction beyond one year. He believed that jurisdiction would not begin to run until the Stay was lifted.

Chair Reynolds asked Mr. Jolly how the Board could go forward with sanctions regarding the items that had not been stayed. Mr. Jolly said the notice would provide the Board the ability to go forward and he would help Ms. Hair prepare the notice.

Mr. Jolly said he considered it silly that they had experienced this kind of difficulty getting enforcement of this order partly because of the issues with the Circuit Court to

which the case had been assigned. Mr. Jolly said, "As much as I like Judge Goldstein, for the last three, four months of his term, I'm not going to tell you he was killing himself. As much as I like Judge Gardner, my understanding is she may have some of her own issues." Mr. Jolly said because Judge Gardner had been unavailable today, the Board had been unsuccessful getting action on this matter. Mr. Jolly apologized for this and said he would continue to seek resolution.

Mr. Louis Ugaz, attorney for the owner, agreed the case could not be heard today. He said this was not because he and his client had been late; he claimed they had attended and "were on time for the purpose of litigating the issues..." Mr. Ugaz said the Judge presiding today was not Judge Gardner, their presiding judge, and when Mr. Ugaz had tried to argue the motion, the Judge said looking at the facts and the pleading that was filed with the court, it should have been set for a special evidentiary hearing. The ruling on the motion had been deferred, and the motion was to be scheduled for a special evidentiary hearing. Mr. Ugaz agreed the motion should be specially set and Mr. Jolly did not.

Mr. Svetlick asked if, given the trouble they were having with this case, they could withdraw this complaint and file a new case, and begin a new evidentiary hearing. Mr. Jolly said this was not the way this was done. If the City wanted to initiate a separate investigation, that could be done without withdrawing this case.

Chair Reynolds announced this case would be scheduled for a status hearing at the Board's October meeting, and notice would include the items not stayed.

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- 5. Case Number 08-08-05
Residence
524 Northwest 13 Avenue
Owner: Rosmine Cyrus**
- **Notice of Status Hearing**

Det. Maney said the owner had telephoned Mr. Walker to inform him she would not be present this evening.

Mr. Walker said he had received a call from the owner at approximately 4:30 and her attitude was, "I don't know why you're bothering me. I've given the property back to the bank." Mr. Walker tried to explain that she could not abandon property and Ms. Cyrus had informed him she "signed these papers for a friend."

Chair Reynolds asked for proof of good service. Mr. Walker said the phone call from the owner was proof. Det. Maney reported the nuisance abatement warnings were mailed on July 25 and received on July 18 and were signed Rosmine Cyrus. According to the property appraiser's office, Rosmine Cyrus was the owner of 524 Northwest 13 Avenue. Det. Maney said it had taken some homework to locate Ms. Cyrus in Davenport Florida. In addition, the Polk County Sheriff's office had hand delivered the first notice of service to the owner at 3543 Dartford Drive in Davenport. The Polk County Sheriff's office had sent paperwork back indicating the notice was properly served, and the City had sent additional correspondence for which Ms. Cyrus had signed.

Det. Maney said he had spoken with Ms. Cyrus two or three times in the past six weeks or so and she had informed him that she had let the property go and given it back to the bank. He had informed her that according to the property appraiser's office she was still the lawful owner and could not walk away from a property. Ms. Cyrus had informed Det. Maney that she could not afford the transportation back Fort Lauderdale to appear.

Mr. Walker said the property had already been declared a nuisance at the previous hearing. He had also intended to refer the property to the Building Department because he believed it should be boarded, but there had been some problems with the procedure.

Chair Reynolds asked Mr. Walker if he was seeking noncompliance sanctions. Mr. Walker said he was seeking fines, and when they reached the maximum amount, they should proceed with foreclosure. He said the property was still in limbo between Ms. Cyrus and the bank.

Det. Maney presented a slide show of photos he had taken of the property. He noted that the windows were broken out, and access was open to anyone wishing to enter in order to sell or purchase drugs or commit any other acts inside. He said their greatest fear was that a child would be pulled inside and something terrible would happen. The property was for sale, and Det. Maney had phoned the realtor and discovered the property was listed at \$265,000. He noted the presence of empty crack cocaine baggies inside the property. Det. Maney said he would contact the code team in an attempt to proceed with emergency boarding of the property.

Mr. Jolly confirmed that the Board had the ability to order the building boarded up. Mr. Walker said he had already contacted Building and Zoning, who he believed would act, so this Board did not need to take that action. Mr. Jolly said the Board had the power to issue the order, but the order must be approved by the City Commission for it to take effect.

Det. Maney testified that none of the requirements set forth in the August 18 order had been complied and that the nuisance continued to this day.

Motion made by Mr. Svetlick, seconded by Ms. Dawkins, to impose fines for each violation up to \$250 per day. In a roll call vote, the motion **passed 3 - 0**.

Mr. Jolly cited the ordinance pertaining to closing the property: Ordinance C01 Section 2-256(c)(2).

Motion made by Mr. Svetlick, seconded by Ms. Dawkins, to recommend the property be closed immediately for the benefit of the safety and welfare of the community and to request that the City Commission affirm that recommendation. In a roll call vote, the motion **passed 3 - 0**.

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- 6. Case Number 08-08-06**
Residence
1026 Northwest 3 Avenue
Owner: Celestin & Viergeline Mercurieu
- **Notice of Evidentiary Hearing**

Det. Maney informed the Board that there had been 72 calls for service to the property in the past six months, 12 of which were nuisance abatement related, and there had been 4 calls for service to the property in the past month, none of which was nuisance-abatement related.

Det. Maney related the facts of the case: there had been two controlled narcotics buys on the property on June 17, 2008, one buy of crack cocaine, and one buy of methylene deoxymethamphetamine (MDMA). On May 27, 2008 there was an arrest for cannabis possession on the property. Det. Maney presented to the following Police recommendations:

1. The owner will post a No Trespass Affidavit sign on the West wall of the property within (72) hours and enforce trespass laws.
2. The owner will adopt the Lease Addendum and Permitting Eviction for Drug Related Activities for all new tenants and renewals.
3. The owner will conduct a tenant screening process utilizing an outside service prior to renting the residence. This process will include a criminal records search.
4. Only tenants and people listed as occupants may reside in the premises.

5. The owner will maintain and keep in good working order all exterior lighting on the front, rear and sides of the building (according to all City of Fort Lauderdale Code requirements) prior to the October Nuisance Abatement Board meeting (October 2nd) if no meeting occurs in October then prior to the next scheduled Nuisance Abatement Board meeting.
6. The owner will repair and maintain all fencing on the property (according to all City of Fort Lauderdale Code requirements) prior to the October Nuisance Abatement Board meeting (October 2nd) if no meeting occurs in October then prior to the next scheduled Nuisance Abatement Board meeting.
7. The owner will repair all broken windows on the property within (10) days and maintain the windows in good repair.
8. The owner will ensure that any and all entrance/exit doors to the apartments will have proper functional locking mechanisms installed within (10) days.
9. The owner will remove any trash and or discarded items from the interior of all vacated apartments within (10) days.
10. The owner will remove any trash including but not limited to discarded items (household and landscape) from the exterior of the property within (10) days and maintain the exterior of the property keeping it free of debris.
11. The owner will remove any trash and or any other discarded items from the roof of the structure within (10) days.
12. The owner will maintain the grounds including but not limited to mowing, weeding and hedge trimming on the exterior of the property according to all City of Fort Lauderdale Code requirements.
13. The owner will remove any and all painted graffiti from the exterior walls of the structure within (10) days.
14. The owner will remove any and all non functional cables from the exterior of the structure within (10) days.
15. The owner will arrange that a physical inspection will be conducted of the property every (30) days to ensure that the property is suitably maintained.

16. The owner(s) is assessed 50% (\$361.39) of the investigative costs to be paid prior to the October Nuisance Abatement Board meeting (October 2nd) if no meeting occurs in October then prior to the next scheduled Nuisance Abatement Board meeting. The Board will waive the balance (\$361.39) of the investigative costs if the owner complies with the Board's Order within 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 \$722.78).
17. If any of the above listed items are not complied with within the time frame set forth, a fine in the amount of \$250.00, per day, per item, not to exceed \$250.00 per day, will be imposed for each day of non-compliance.
18. The Nuisance Abatement Board will retain jurisdiction over the property for a period of one (1) year until September 2009.

Det. Maney stated the nuisance abatement warnings had been mailed on August 26 and were signed for by Viergeline Mercidieu on August 28. Notice of the evidentiary hearing was mailed on August 27, 2008 and was signed for by Viergeline Mercidieu on August 29, 2008.

Mr. Walker reported he had received no call from the owners and they had not appeared for the hearing. He asked the Board to accept the Police evidence packet into evidence in total and declare the property a nuisance.

Motion made by Mr. Svetlick, seconded by Ms. Dawkins, to declare the property constituted a nuisance and establish Board jurisdiction over the property. In a roll call vote, the motion **passed** 3 - 0.

Det. Maney presented a slide show of photos he had taken of the property and described the dilapidated condition. He noted one of the apartments was occupied. Det. Maney said there was concern with this structure that a child or adult would be abducted and taken into the structure and something heinous would occur. He suggested the Board could recommend an emergency boarding for this building.

Mr. Walker asked the Board to adopt all 18 recommendations from the Police Department and to schedule the case for a notice of status hearing next month.

Ms. Pam Roloff, neighbor, reported drug dealers and prostitutes walked by her property to access this property. She did not want to wait 30 days for the property to be boarded. Ms. Roloff said her community had conducted a neighborhood cleanup a couple of months ago, and within one week the property had returned to its bad condition. She asked the Board to have the property boarded up as soon as possible.

Motion made by Ms. Dawkins, seconded by Mr. Svetlick, to adopt the recommendations proposed by the City. In a roll call vote, the motion **passed** 3 - 0.

The Board was unsure whether or not the one occupied apartment was occupied legally. Chair Reynolds clarified that they were discussing boarding up the unoccupied units only.

Motion made by Mr. Svetlick, seconded by Ms. Dawkins, to recommend that the three unoccupied units on the property be closed immediately for the benefit of the safety and welfare of the community and to request that the City Commission affirm that recommendation. In a roll call vote, the motion **passed** 3 - 0.

Mr. Walker requested that as soon as the boarding orders were signed they be forwarded to the City Attorney's office.

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7. Board Discussion

Off Board jurisdiction:

2655 Northwest 20 Street
1300 Northeast 4 Avenue

Det. Maney said 2655 Northwest 20 Street was due to come off jurisdiction on September 13, 2008. He had checked the property recently, and it was totally in compliance. There had been two calls for service to the property in the past six months, neither of which was nuisance abatement related. In the past 30 days there had been one call for service, which was not nuisance abatement related.

Det. Maney reported 1300 Northeast 4 Avenue, the Citgo gas station, was scheduled to come off jurisdiction September 13, 2008. In the past six months there had been 104 calls for service to the property, five of which were nuisance abatement related. City of Fort Lauderdale Police had made two possession of narcotics arrests and three delivery of narcotics arrests. In the past 30 days there had been 13 calls for service to the property, none of which was nuisance related.

Det. Maney stated in the six months from August 11, 2007 to February 11, 2008, there had been 176 calls for service to the property, 35 of which had been nuisance abatement related. He noted this was a drastic decline.

Det. Maney noted that the 104 calls for service to the property could be misleading because this number could reflect any activity on the entire 1300 block of Northeast 4 Avenue, not just at the gas station.

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The Board discussed possible dates for their October meeting, and agreed to consider the 16th.

Thereupon, with no additional business to come before the Board, the meeting adjourned at **7:41**p.m.

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