

**CITY OF FORT LAUDERDALE
 NUISANCE ABATEMENT BOARD MINUTES
 CITY HALL, CITY COMMISSION CHAMBERS, 1ST FLOOR
 100 NORTH ANDREWS AVENUE
 THURSDAY, MARCH 26, 2009, 7:00 P.M.**

<u>Members</u>	<u>Attendance</u>	Cumulative Attendance 3/09 through 2/10	
		<u>Present</u>	<u>Absent</u>
Douglas Reynolds, Chair	P	1	0
Laurie Watkins, Vice Chair	P	1	0
Linda Dawkins [Alternate]	A	0	1
Ted Fling	P	1	0
Pat Mayers	P	1	0

Staff Present

Joyce Hair, Board Clerk
 Bruce Jolly, Board Attorney
 Det. Joel Maney, Liaison
 Scott Walker, Assistant City Attorney
 B. Chiappetta, Recording Clerk, Prototype, Inc.

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Purpose: Promote, protect, and improve the health, safety, and welfare of the citizens by imposing administrative fines and other non-criminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances under circumstances when a pending or repeated violation continues to exist.

1. Call meeting to order; Pledge of Allegiance

The meeting was called to order at 7:01 p.m. and the Pledge of Allegiance was recited.

2. Roll call; witnesses sign log; swearing in

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

Witnesses were sworn in.

3. Approval of minutes for February 2009

Mr. Fling corrected a date on page 3 of the February minutes.

Motion made by Ms. Mayers, seconded by Mr. Fling, to approve the minutes of the Board's February 2009 hearing as amended. In a voice vote, the motion passed unanimously.

**4. Case Number 08-12-08
2162 NW 6 Street
The Green Store**

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• **Notice of Status Hearing**

Det Maney reported the owner had accepted notice of this hearing on February 25 and 26, 2009. Det Maney informed the Board that the business was boarded and inactive and the property was being sold.

Mr. Walker said the City had authorized release of their lien so the City could purchase the property. Mr. Robert Wojcik, Community Redevelopment Agency, stated they had a contract to purchase the property and were awaiting release of the lien, and confirmation that all violations had been cured and the property was complied. He hoped to close on the property the week of March 30.

Det. Maney confirmed that there were no issues on the property. He stated the Board's jurisdiction was scheduled to run through January 20, 2010. Mr. Jolly believed the Board's jurisdiction would be retained, but they should issue an order to release the lien.

Motion made by Ms. Mayers, seconded by Ms. Watkins, to enter an order stating that the property was in compliance with the prior order of this Board, and that the Board specifically directed and requested the City Clerk to release the lien. In a roll call vote, motion passed 4 - 0.

5. Case Number 07-11-10
519 Northwest 23 Avenue
The Parisian Hotel
Owner: Tania Ouaknine

- **Notice of Status Hearing**

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Det Maney reported the owner had accepted notice of this hearing on February 19, 2009. Det Maney informed the Board that Judge Gardner of the 17th Judicial Court had lifted the Stay on February 11, 2009 under Case 08-2464(11).

Det. Maney stated he could not presently give an accurate count of the calls for service because the City's I-Lead System was being revamped. Based on his experience, calls for service to this property were "minimal at best".

Det. Maney had met with Ms. Ouaknine on March 10 to discuss the Court order and to request receipts and videos to get the property complied. Ms. Ouaknine had produced the receipts but had been unable to produce the DVD of the transactions in the office area. She stated her daughter could produce these on March 18 after she returned from Israel. Det. Maney had not heard from Ms. Ouaknine, so he had phoned her on March 20, and Ms. Ouaknine informed him her attorney had advised he needed a warrant to obtain the DVD.

Det. Maney explained that the order required Ms. Ouaknine to install the video cameras and to make the DVD available. The first requirement was complied, but the second was not. The order also required Ms. Ouaknine to pay the assessed investigative costs and fines which had a remaining balance of \$1,004.

Det. Maney recommended remaining vigilant with this property and maintaining jurisdiction for at least one more year through March 2010.

Mr. Jolly confirmed for Chair Reynolds that the appeal was concluded and there was no more Stay. Mr. Jolly said the Board's jurisdiction had been stayed during the appeal, so their jurisdiction would begin on February 11, 2009 and continue for one year. Chair Reynolds reminded Mr. Jolly that there had been a partial lifting of the Stay to permit enforcement of some items in the order. Mr. Jolly said this would require splitting the order. Chair Reynolds requested a written opinion from Mr. Jolly regarding this and he agreed.

Det. Maney reiterated that the property was not complied per the requirement to produce the DVD to coincide with the receipts the owner had provided; this came under item 4 of the order.

Ms. Tania Ouaknine, owner, said the system was only retaining 12 – 14 days worth of data, so the times Det. Maney had requested no longer existed.

Mr. Louis Ugaz, attorney for Ms. Ouaknine, said they were taking the position that a warrant was required to produce the DVD. Chair Reynolds reminded Mr. Ugaz that this was part of the order, and they had lost their appeal. Mr. Ugaz said he had brought no legal authority indicating a warrant was required, but offered to bring this to the next hearing.

Ms. Ouaknine could not explain how the recordings were made. She said she did not operate the system when her daughter was away.

Det. Maney clarified that on March 10, 2009 he had requested DVDs for the dates February 27 through February 29. He wanted the DVD in order to substantiate the activity described on the receipts. Mr. Walker said the City wanted to verify Ms. Ouaknine was now renting rooms for 24 hours instead of one or two hours. Det. Maney was willing to give Ms. Ouaknine another chance to produce DVDs and she agreed to produce them. Det. Maney agreed to give Ms. Ouaknine time to produce the DVD after he requested it.

Det. Maney reiterated the other outstanding violation was the \$1,004 balance for investigative costs and fees. Mr. Ugaz felt this amount was too high, and requested a reduction, and/or a payment plan. Chair Reynolds asked Ms. Ouaknine her income for the past week; she said perhaps \$600. Mr. Jolly recommended against adding a fine for non-payment of the outstanding investigative costs and fines. Mr. Jolly thought the only consequence was to close the lien.

Motion made by Ms. Watkins, seconded by Ms. Mayers, to order the owner to pay the \$1,004 balance for investigative costs and fines within 60 days; if this were not complied, there would be a further recommendation by this Board that the City pursue foreclosure. In a roll call vote, Board approved 4 – 0.

**6. Case Number 09-01-01
1300 Northwest 6 Street
NADA Market**

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- **Notice of Status Hearing**

Det Maney reported the owner had accepted notice of this hearing on February 24, 2009. Det. Maney stated he could not presently give an accurate count of the calls for service because the City's I-Lead System was being revamped.

Det. Maney testified that the owner was fully cooperating and was in communication with him. Det. Maney listed the items in compliance: 1, 2, 3, 4, 5, 6, 7, 8, 9, 15 and 16. Items 10 through 14 dealt with allowing the Police Department access to the video from the surveillance system, and Det. Maney suggested these be dropped from the requirements because of the attendant costs. He remarked that he could request DVD from the owner any time he needed it. Mr. Jolly stated a motion was required to remove an item from the original order. If Det. Maney reported everything was complied, the Board need do nothing. Det Maney said he did not want to mislead anyone into thinking items were complied when they were not.

Chair Reynolds asked why Det. Maney had changed his mind about the requirements. Det. Maney stated he had learned more about this business, and did not believe these compliance items were necessary. Mr. Jolly confirmed that if the Board approved removing Items 10 through 14, reinstating them should be brought under a separate proceeding. He recalled that the Board had modified an order in the past as jurisdiction continued based on changing circumstances. Mr. Jolly changed his mind, and said he believed the items the Board removed could be reinstated as a means to resolve a problem that arose.

Motion made by Ms. Mayers, seconded by Ms. Watkins, to remove items 10 through 14 from the prior order. In a roll call vote, Board approved 4 – 0.

7. Case Number 09-01-02
1500 NW 6 Street
Sistrunk Market

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• **Notice of Evidentiary Hearing**

Det Maney reported the owner had accepted notice of this hearing on March 3, 2009. Det. Many informed the Board that from July 13, 2008 to January 13, 2009, there had been 294 calls for service to the property, 19 of which were nuisance abatement related, and there had been 21 nuisance abatement-related arrests.

Det. Maney testified that on July 18, July 23, September 19, and September 28, 2008, arrests were made for possession of cannabis; on July 24, August 27, September 4, September 16, September 21, September 22, September 28, October 2008, and January 30, 2009 arrests were made for possession of cocaine. On September 26 and November 14, 2008 arrests were made for delivery of cocaine. On October 30, an arrest was made for delivery of a bogus substance. On November 4, an arrest was made for possession of cocaine with intent to deliver. On November 23, an arrest was made for selling alcohol to a minor. On December 3, 2008, and January 30, 2009 an arrest was made for possession. On December 20, an arrest was made for probable

cause to deliver cocaine. On January 30, an arrest was made for possession of cocaine on a warrant arrest. On January 29, 2009 an arrest was made for possession of cocaine and paraphernalia. On January 31, an arrest had been made for possession of cocaine and trespassing.

Det. Maney stated the owner was present, and had informed him he would not object to the facts of the case.

Mr. Walker asked the Board to declare the property a nuisance on the basis of the reports before them.

Mr. Ali Amadi, property owner, said he understood the process and did not contest the City's claim that the property was a nuisance. He also understood that the Board would have jurisdiction over the property for one year, during which time they could impose requirements he must perform, and if he did not, he could be fined up to \$250 per day.

Motion made by Mr. Fling, seconded by Ms. Watkins, to determine by stipulation the property was a nuisance under the statute. In a roll call vote, Board approved 4 – 0.

The Police recommendations for the property were as follows:

1. The owner will maintain a trespass affidavit on file with the Police Department and have posted authorized "No Trespassing" signs on all sides of the property within seven (7) days.
2. The owner will ensure that no person(s) loiter in the parking lot, on the sidewalks, all sides of the property, as well as the inside of the store during all open business hours.
3. The owner will install and maintain a minimum of four (2) exterior surveillance video cameras and one (1) interior surveillance video camera by the April 9th, 2009 Nuisance Abatement Board Meeting. The two (2) exterior cameras will be installed in a strategic position to monitor/record all activity in the south side parking lot as well as the front entrance/exit doors, which are located on the east side of the structure. The interior camera will be focused on the cashier and cash register, which will monitor and record the activity/transactions. The cameras will be installed and maintained according to all Fort Lauderdale City Code requirements. The surveillance video will be made available to the Fort Lauderdale Police Department during all business hours.
4. The owner will install and maintain exterior lighting that will completely illuminate the parking lot located on the south side of the store. This lot will be illuminated from dusk to dawn.

5. The owner will repair all fencing surrounding the property over which he has control (according to all City of Fort Lauderdale Code requirements) prior to the March Nuisance Abatement Board meeting (April 9, 2009) and maintain the fencing in good order. No fencing will be maintained or constructed that would obstruct the view of the property.
6. The owner will remove any narcotic paraphernalia being sold from the store immediately. This is including but not limited to glass rose stems, rolling papers, jewelry bags, "Brassos" and or "Chore Boys".
7. The owner will maintain the property free of debris and trash.
8. The owner will remove all stickers and products blocking east-facing windows.
9. The owner will post video surveillance warning signs on the exterior walls of the business prior to the April 9, 2009 Nuisance Abatement Board meeting.
10. The owner will ensure that the Fort Lauderdale Police Department is connected to the store's video surveillance system, which can be remotely monitored by FLPD 24 hours a day, seven days a week.
11. 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.
12. The data/video obtained from the video system can be used by the Police Department for any purpose they desire relevant.
13. The owner will provide the Police Department any required Passwords and or member/log-in names or numbers to access the account.
14. The owner will notify the Police Department immediately if there are any changes to the IP, Passwords, Member/log-in name.
15. The owner will notify the Police Department immediately if any of the camera(s) are moved or relocated.
16. The investigative costs total a dollar amount of **\$1,141.54**. The owner(s) is assessed 50% of this amount, which equals (**\$570.77**). This cost is to be paid

prior to the April Nuisance Abatement Board Meeting (April 9, 2009). If no meeting occurs in April, then prior to the next scheduled Nuisance Abatement Board Meeting. The Board will waive the remaining balance (\$570.77) of the investigative costs if the owner complies with the Board Order within the specified time frame(s). If the owner fails to comply within the specified time frame(s), the remaining 50% (\$570.77) of the investigative costs will be assessed.

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 per day will be imposed for each day of non-compliance.
18. The owner will appear before the Nuisance Abatement Board at the April 9, 2009 Nuisance Abatement Board Meeting (or, if no meeting occurs at the succeeding Nuisance abatement meeting) for a Status Hearing.
19. The Nuisance Abatement Board will retain jurisdiction over the property for a period of (1) year, until March 31, 2010.

Det. Maney reported that he had visited the property with the owner two weeks ago to discuss how to comply. Since then, the fence had been repaired and a good deal of the trash had been cleaned up. Det. Maney remarked there had been a good effort from the owner and the lessee to cooperate. He asked to Board to consider all of his recommendations.

Mr. Amadi had no objections to the recommendations. He informed Mr. Fling that he spent his time at NADA Market, but he checked in with the owner of the Sistrunk Market. Mr. Amadi said the owner of the Sistrunk Market understood his obligations regarding this.

Motion made by Ms. Watkins, seconded by Ms. Mayers, to accept the recommendations from the Police Department. In a roll call vote, Board approved 4 – 0.

Det. Maney stated a status hearing would be scheduled for April 9, 2009.

8. Board Discussion

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The Board's next meeting was scheduled for April 9, 2009.

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Thereupon, with no additional business to come before the Board, the meeting adjourned at **8:15** p.m.

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