

**CITY OF FORT LAUDERDALE
NUISANCE ABATEMENT BOARD MINUTES
CITY HALL, CITY COMMISSION CHAMBERS, 1ST FLOOR
100 NORTH ANDREWS AVENUE
THURSDAY, APRIL 14, 2011, 7:00 P.M.**

<u>Members</u>	<u>Attendance</u>	Cumulative Attendance 3/2011 through 2/2012	
		<u>Present</u>	<u>Absent</u>
D. Ryan Saunders, Chair	P	2	0
Sal Gatanio, Vice Chair	P	2	0
Louise Dowdy	P	2	0
Dale Hoover	P	1	0
Tom Wolf	A	1	1
Richard Schulze, Alternate	A	1	2
Cindy Smith, Alternate	P	2	0

Staff Present

Joyce Hair, Board Clerk
Bruce Jolly, Board Attorney
Det. Paul Maniates
Scott Walker, Assistant Attorney
B. Chiappetta, Recording Clerk, Prototype Inc.

Communication to the City Commission

None

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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 7:05 p.m.

2. Roll call; witnesses sign log; swearing in

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

Witnesses were sworn in.

3. Approval of minutes for March 2011

Motion made by Ms. Dowdy, seconded by Mr. Gatano, to approve the minutes of the Board's March 2011 meeting. In a voice vote, the motion passed unanimously.

Cases:

4. Case Number 10-05-03

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1220 NW 3rd Street

Residence

Owner: Jason Brown

- **Notice of Status Hearing**

Det. Maniates announced that the owner had received notice of this meeting on 3/25/11.

Det. Maniates stated in the past 30 days, there had been 1 call for service to the property, which was not nuisance related. The property was in compliance and Det. Maniates did not recommended bringing the owner back for the May 12, 2011 meeting. Jurisdiction would end on the property on May 19, 2011.

5. Case Number 10-03-02

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2217 South Federal Highway

Advanced Massage Therapy

Owner: Sultan Family Ltd. Partners

- **Notice of Status Hearing**

Det. Maniates stated the property owner had received notice of the hearing on 3/25/11.

Det. Maniates announced that in the past 30 days there had been zero calls for service to the property. The property was in compliance and jurisdiction on the property ended on April 14, 2011.

6. **Case Number 10-09-05**
217 Southwest 19th Avenue
Residence
Owner: Luby and Bruce Hargrett
 - **Massey Hearing**

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Det. Maniates stated the property owner had been mailed notice of the meeting.

Det. Maniates announced that in the past 30 days there had been one call for service to the property, which was not nuisance related.

Det. Maniates reported on March 15, the signs were covered in plastic and taped to the garage door, covering the house number. He had informed Ms. Hargrett about the proper placement of the signs and she said she understood. On March 16, Det. Maniates found the new signs were again covering the house number. Mr. Hargrett had refused to speak with Det. Maniates and stated he would not work with him. On March 17, Ms. Hair had received an email forwarded to her from Mr. Hargrett to Mr. Lee Hart. The email indicated the Hargretts were fed up and wished to be left alone. On March 27, Det. Maniates found the signs still covering the house number. He presented photos of the signs into evidence.

On March 23, Ms. Hair received three voicemails from the Hargretts asking about the invoices they had received. On March 25, Det. Maniates received a phone message from Mr. Calvin stating he was representing the Hargretts and requesting copies of their orders. Det. Maniates had complied with this request.

Det. Maniates said as of April 14, 2011, the April payment had not been made, neither had the balance of the investigative fees and fines. He recommended a status hearing for May 2011.

Mr. Walker stated the signs were not in compliance because they had not been posted on either side of the house number, as specified in the order.

Mr. Arthur Calvin, attorney for the Hargretts, said there were house numbers on the mailbox. Chair Saunders stated the signs must be posted on either side of the house numbers on the house.

Mr. Calvin said the Hargretts were prepared to make the April payment. Ms. Nancy Gaspard, the owners' daughter, said they thought they sign placement was proper. Det. Maniates said he had explained to Ms. Hargrett exactly how the signs should be mounted.

Mr. Hargrett said he was being harassed and his fence was being vandalized. He stated Det. Maniates had never informed him that fines were being imposed. Det. Maniates said it was not the Police or himself who was harassing the Hargretts. He explained that the fines were imposed because no one had attended the last meeting. Mr. Hargrett had shown up after the Board had taken action.

Det. Maniates said Mr. Hargrett had just handed him the April payment. Chair Saunders noted that the Board had been concerned at the last meeting that the signs were not properly secured to the building.

Mr. Hargrett explained that the reason the signs had not been properly attached was that he had been painting the house. Chair Saunders said Det. Maniates had reported this in February.

Mr. Jolly explained this was a Massey hearing: the determination would be made whether or not the property was complied after the respondent was given the opportunity to show cause that he had or had not complied. He directed the Board how to make a proper motion.

Mr. Saunders noted that this was heard as a Massey case at the March hearing.

Mr. Calvin stated Mr. Hargrett had experienced car problems, which caused him to be late for the March meeting.

Det. Maniates stated he had first seen the signs installed properly as of March 22.

Motion made by Ms. Smith, seconded by Mr. Hoover, to find the property was in compliance. In a roll call vote, motion passed 3-2 with Ms. Dowdy and Chair Saunders opposed.

Det. Maniates recommended a status hearing in May.

7. Case Number 11-03-02
414 Northwest 15th Way
Residence
Owner: Ventura and Rosa Sorta

- **Notice of Evidentiary Hearing**

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Det. Maniates stated the owners, Ventura and Rosa Sorta, had received legal notice of this hearing on March 24, 2011.

Det. Maniates announced that in the past 6 months there had been 20 calls for service to the property, 4 of which were nuisance related. On February 10, 2011, using a confidential informant, \$20 worth of crack cocaine had been purchased; on February 16, 2011, using a confidential informant, \$20 worth of crack cocaine had been purchased; on February 25, 2011, \$20 worth of crack cocaine had been purchased and a search warrant had been executed, resulting in two arrests for delivery of cocaine, trafficking in cocaine, possession of cannabis and possession of a firearm.

Det. Maniates had spoken with the owners earlier in the day and explained they should attend the meeting. He had also communicated this to their 17-year old daughter. He noted no family member was present at the meeting. Det. Maniates presented photos and the Police recommendations for the property:

1. The owner will adopt and enforce the Drug Lease Addendum and Eviction for Drug Related Activities for all new tenants and renewals.
2. The owner will file a No Trespass Affidavit with the Fort Lauderdale Police Department and laminate and securely post No Trespassing signs on property within fourteen days and thereafter enforce trespassing laws.
3. The owner will conduct a criminal records check of each tenant prior to renting the residence.
4. Only tenants and people listed as occupants may reside in the premises.
5. The owner will install and keep in good working order exterior lighting (according to all City of Fort Lauderdale Code requirements) eliminating any dark areas prior to the May Nuisance Abatement Board Meeting (May 12, 2011) if no meeting occurs in May 2011 then this should be completed by June 9, 2011. Lighting (flood light with two bulbs, one illuminating the walk way and the other the parking lot area) will be installed on the front of the property to illuminate the front parking lot area.

6. The owner will maintain the property free of debris
7. The investigative costs total a dollar amount of \$3,299.76. The owner(s) is assessed 50% of this amount, which equals (\$1,649.88). This cost is to be paid prior to the May 12, 2011 Nuisance Abatement Board Meeting. If no meeting occurs in May, then prior to the next scheduled Nuisance Abatement Board Meeting. The Board will waive the remaining balance of (\$1,649.88) 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% (\$1,649.88) of the investigative costs will be assessed.
8. 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.
9. The owner will appear before the Nuisance Abatement Board at the May 12, 2011 Nuisance Abatement Meeting (or, if no meeting occurs, then at the succeeding Nuisance abatement meeting) for a Status Hearing
10. The Nuisance Abatement Board will retain jurisdiction over the property for a period of one (1) year from the date of this order.

Mr. Walker asked the Board to move the Police reports into evidence, establish the residence as a nuisance and adopt the Police recommendations in full. He suggested including the same language changes they had included for case 11-03-03 regarding items #1 and #2. He also suggested the owner be required to supply the Nuisance Abatement Board with a complete tenant list for this case and all future cases. Det. Maniates questioned whether this was "going somewhere we shouldn't go as far as knowing who lives where." Mr. Jolly said he was not so troubled when the property was already under the Board's jurisdiction. This was added to item #4.

Ms. Smith noted the defendant in this case was also Patrick Rivers. She asked if the weapon belonged to Mr. Rivers. Det. Bazzi said Mr. Rivers had been in control of the firearm. He explained that Mr. Rivers was using different locations in the City to sell crack cocaine.

Det. Maniates did not feel the owners were reluctant to work with him; he believed that they might not understand the process. He hoped to be able to make them understand.

Ms. Dowdy remarked on the number of absentee landlords in this area of the City.

Chair Saunders requested a motion to accept the Police reports into evidence. Mr. Jolly advised that this could be done informally; Chair Saunders' determination that these would be accepted was sufficient.

Motion made by Ms. Smith, seconded by Mr. Gatano, to declare the property a nuisance and to accept the Police recommendations as amended. In a roll call vote, motion passed 5-0.

8. Case Number 11-03-03
426 Northwest 14th Avenue
Residence
Owner: Lewis Tunnage

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- **Notice of Evidentiary Hearing**

This item was heard out of order.

Det. Maniates stated the owner, Lewis Tunnage, had received legal notice of this hearing on March 31, 2011.

Det. Maniates announced that in the past 6 months there had been 25 calls for service to the property, 11 of which were nuisance related. On December 7, 2010, using a confidential informant, \$20 worth of crack cocaine had been purchased; on December 7, 2010, using a confidential informant, \$20 worth of crack cocaine had been purchased; on December 14, 2010, using a confidential informant, \$20 worth of crack cocaine had been purchased; on December 22, 2010, a search warrant had been executed and one arrest made for narcotics-related charges. Det. Maniates had met with the owner on April 5, 2011 and found him to be very cooperative and interested in addressing issues on the property. Det. Maniates stated the following Police recommendations for the property:

1. The owner will adopt a lease addendum permitting eviction for drug related activities for all new tenants and renewals.
2. The owner will file a No Trespass Affidavit with the Fort Lauderdale Police Department, post "No Trespassing" signs on property within fourteen days and thereafter enforce trespassing laws.
3. The owner will conduct a criminal records check of each tenant prior to renting the residence.
4. Only tenants and people listed as occupants may reside in the premises.

5. The owner will install and keep in good working order exterior lighting (according to all City of Fort Lauderdale Code requirements) eliminating any dark areas prior to the May Nuisance Abatement Board Meeting (May 12, 2011) if no meeting occurs in May 2011 then this should be completed by June 9, 2011. Lighting (flood light with two bulbs, one illuminating the walk way and the other the parking lot area) will be installed on the front of the property to illuminate the front parking lot area.
6. The owner will maintain the property free of debris.
7. Investigative costs total \$3,299.76. The owner is assessed 50% of this amount \$1,649.88, to be paid prior to the May 12, 2011 Nuisance Abatement Board meeting, if no meeting occurs in May, then prior to the next scheduled Nuisance Abatement Board meeting. the Board will waive the remaining balance of \$1,649.88 of the investigative costs if the owner complied with the Board order within the specified time frames. If the owner fails to comply within the specified time frames, the remaining 50% of the investigative costs will be assessed. 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.
8. The owner will appear before the Nuisance Abatement Board at the May 12, 2011 Nuisance Abatement Meeting (or, if no meeting occurs, then at the succeeding Nuisance abatement meeting) for a Status Hearing.
9. The Nuisance Abatement Board will retain jurisdiction over the property for a period of one (1) year from the date of order: April 2012.

Det. Maniates recommended assessing 25% of the investigative costs because Mr. Tunnage would be investing in lights on both apartment buildings. He presented photos of the property to the Board and pointed out where he suggested the lights should be installed.

Mr. Walker asked if Mr. Tunnage contested the facts of the drug arrests. Mr. Tunnage stated he agreed the arrests occurred, but noted that those arrested were not residents. Mr. Walker submitted the Police reports into evidence and requested the Board consider the property a nuisance based on those facts.

Motion made by Mr. Gatano, seconded by Ms. Smith, to declare the property a nuisance based on the facts contained in the Police reports. In a roll call vote, motion passed 5-0.

Mr. Walker referred to the Police recommendations, and asked if Mr. Tunnage could comply with all but #7 and Mr. Tunnage agreed to comply. Mr. Walker remarked that when he had spoken with Mr. Tunnage about the recommendations, he had indicated he could not pay the fines. The Police Department had adjusted the amount on #7 to 25% (\$824.94), which could be paid over a 10-month period.

Mr. Tunnage said the drug dealer was not a tenant, and it would have been nearly impossible to stop the drug sales. He said if Police had told him what was happening, he would have provided them with keys and assisted them.

Det. Tarek Bazzi confirmed that the person noted on the search warrant, Patrick Rivers, had documents showing he resided in apartment #6. Mr. Tunnage said Mr. Rivers was not a tenant. Det. Maniates presented a lease addendum similar to the drug addendum the City used, that Mr. Tunnage said was included in the lease. Mr. Tunnage said he intended to make tenants sign new lease agreements, including these addendums. Mr. Tunnage stated he did not check the property every day, and in December, a tenant had been the person on the premises responsible for ensuring "nothing was wrong..."

Ms. Smith advised Mr. Tunnage that she had owned properties in bad areas, and if the landlord was visible and visited often, the drug dealers would not hang out there. She remarked that the property also looked in disrepair, and she felt this encouraged crime. Mr. Tunnage stated he lived six blocks away and visited the property "every now and then."

Ms. Dowdy stated she had known Mr. Tunnage for years, and Mr. Jolly advised her to recuse herself if she felt uncomfortable participating. Mr. Jolly said Ms. Dowdy would be provided with the abstention form.

Det. Bazzi explained to Chair Saunders that when executing the search warrant on apartment #6, Police had recovered 26 grams of crack cocaine, \$208 and miscellaneous paperwork indicating Mr. Rivers lived at the address. Mr. Tunnage stated the person who had occupied the apartment at the time of Mr. Rivers' arrest had moved out immediately after; he could not recall if this person was related to Mr. Rivers.

Det. Bazzi informed Mr. Gatano that a tenant had indicated to the confidential informant which apartment to visit for drug purchases.

Motion made by Ms. Smith to accept the Police recommendations, adjusting the amount on #7 to 35%. Motion died for lack of a second.

Motion made by Mr. Gatanio, seconded by Ms. Smith, to accept all of the Police recommendations except #7, and to wait until the May hearing to determine if the amount in item #7 should be reduced.

Chair Saunders wanted to edit the language in item #2 to read : “lamine and securely fasten ‘No Trespassing’ signs on property...” Mr. Gatanio accepted this amendment to his motion.

Mr. Walker suggested amending item #1 to read: “...will adopt and enforce the drug lease addendum...” Mr. Gatanio agreed to this addendum.

In a roll call vote, motion passed 3-1 with Ms. Dowdy abstaining and Chair Saunders opposed.

Det. Maniates recommended a status hearing be scheduled for the Board’s May meeting.

Board Discussion

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Mr. Gatanio asked if the Board’s reduction of fines for an individual owner would affect the Board’s actions in the future. Mr. Jolly said this would not affect them in the future; the Board had the ability in every individual case to impose, reduce or abate the fines. Ms. Hair remarked that fees were significantly higher for cases in which a search warrant was executed.

Ms. Smith asked if the Board could recommend an owner visit his/her property several times per week. Mr. Jolly agreed they could recommend this, but it would be unenforceable.

Chair Saunders asked Det. Maniates to update the list of items a business could not sell.

Thereupon, with no additional business to come before the Board, the meeting adjourned at 8:32 PM.

The Board’s next meeting was scheduled for May 12, 2011.