

**CITY OF FORT LAUDERDALE
 UNSAFE STRUCTURES BOARD
 THURSDAY, AUGUST 20, 2009 AT 3:00 P.M.
 CITY COMMISSION MEETING ROOM
 CITY HALL**

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative Attendance 10/08 through 9/09</u>	
		<u>Present</u>	<u>Absent</u>
John Scherer, Chair	P	8	2
John Phillips, Vice Chair	P	7	3
John Barranco	P	7	3
Joe Crognale	A	2	1
Pat Hale	P	9	1
Hector Haguaburo	A	5	5
Joe Holland	P	9	1
Thornie Jarrett	P	10	0
Michael Weymouth	P	7	0

City Staff

Lori Grossfeld, Board Secretary
 Ginger Wald, Assistant City Attorney
 Brian McKelligett, Administrative Assistant II
 Skip Margerum, Code Enforcement Supervisor
 Gerry Smilen, City Building Inspector
 Dee Paris, Administrative Aide
 Lindwell Bradley, Code Enforcement Supervisor
 Chris Augustin, Building Official
 J. Opperlee, ProtoType Inc. Recording Clerk

Communication to the City Commission

None

Witnesses and Respondents

CE05121325: Robert McIntyre, owner
 CE07040050: Mike Richel, General Contractor
 CE09032197: Al Jackson, owner

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<u>Case Number</u>	<u>Respondent</u>	<u>Page</u>
1. CE05121325 Address: Disposition:	Crazy Gregg's Marina LLC 301 Seabreeze Blvd. 30-day extension, the Board recommends that the respondent return with his architect, his general contractor and an attorney if he's retained one, along with the plans, plans review number and receipts. Board approved 5-2.	<u>3</u>
2. CE07040050 Address: Disposition:	Stark Equity Group LLC 1340 Northwest 19 Avenue 60-day extension. Board approved 6-1.	<u>30</u>
3. CE09032197 Address: Disposition:	Al Preston Jackson 1800 NW 3 Court 60-day extension. Board approved 7-0.	<u>49</u>
Board Discussion/ For the Good of the City		<u>53</u>

The regular meeting of the Unsafe Structures Board convened at 3:00 p.m. at the City Commission Meeting Room, City Hall, 100 North Andrews Avenue, Ft. Lauderdale, Florida.

All individuals giving testimony before the Board were sworn in.

Approval of meeting minutes

Motion made by Mr. Jarrett, seconded by Mr. Phillips, to approve the minutes of the Board's July 2009 meeting. Board unanimously approved.

1. Case: CE05121325

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Crazy Gregg's Marina LLC

301 Seabreeze Boulevard

MS. PARIS: Our first case is on page one. This is an old business case. Case CE05121325, the inspector is Gerry Smilen, the address is 301 Seabreeze Boulevard, the owner is Crazy Gregg's Marina LLC.

We have service by posting on the property 7/22/09, advertising in the Daily Business Review 8/7/09 and 8/14/09. Certified mail and violations as noted in the agenda.

This case was first heard at the 6/19/08 USB hearing. At that time the Board granted a 30-day extension to the 7/17/08 USB hearing, with the stipulation that the respondent return with a letter from his restaurant stating the facilities would be made available to the person working in the booth. The respondent must also forward the letter to the building inspector for approval.

At the 7/17/08 USB hearing, the Board granted a 60-day extension to the 9/18/08 USB hearing, with the stipulation the property must be secured. At the 9/18/08 USB hearing the Board granted a 60-day extension to the 11/20/08 USB hearing. At the 11/20/08 USB hearing, the Board granted a 90-day extension to the 2/19/09 USB hearing. At the 2/19/09 USB hearing, the Board granted a 90-day extension to the 5/21/09 USB hearing. At the 5/21/09 USB hearing the Board granted a

60-day extension to the 7/16/09 USB hearing. At the 7/16/09 USB hearing, the Board granted a 30-day extension to the 8/20/09 USB hearing with the stipulation that the respondent submit plans to the Building Department in a timely fashion.

CHAIR SCHERER: Okay. Gerry, do you know if there's any update on the plans?

MR. MCINTYRE: I looked right before I came here, no.

MS. PARIS: Sir, state your name.

CHAIR SCHERER: Okay, go ahead and -

MR. MCINTYRE: Robert McIntyre, Crazy Gregg's Marina, the plans are turned in to the City, I checked the Internet.

CHAIR SCHERER: Excuse me?

MR. MCINTYRE: The plans are turned in to the City.

CHAIR SCHERER: The plans have been turned in the City? When did you turn them in?

MR. MCINTYRE: Last week.

CHAIR SCHERER: What day last week?

MR. MCINTYRE: Thursday. And I check each day in the morning and the afternoon; I haven't seen any change on them.

CHAIR SCHERER: Okay.

MR. HOLLAND: Gerry has a [inaudible]

MR. MCINTYRE: The only reason it took 'til last Thursday, I wanted to get them in here sooner, but I wanted more detail on the countertops, and I actually got an ADA-approved retractable countertop and that's incorporated in the

plans. So I really can't see any reason why they wouldn't be happy with them.

CHAIR SCHERER: Gerry, do you have something to add?

INSPECTOR SMILEN: Gerry Smilen, building inspector, City of Fort Lauderdale. Looking at our records, I don't see any plans that have been submitted. We have a payment that was made on Flair, the automated line, but my note here is 'plans out of office per previous note' then it says 'payment made on Flair, no action taken.' So I think we're pretty much where we were before; I don't think we've really progressed any.

CHAIR SCHERER: Who submitted the plans?

MR. MCINTYRE: My general contractor.

CHAIR SCHERER: Who is your general contractor?

MR. MCINTYRE: My general contractor, John McGowan. The same time he turned those in along with application, everything for a roof permit. That was last Thursday.

CHAIR SCHERER: Application for a roofing permit?

MR. MCINTYRE: We needed a roof permit also.

CHAIR SCHERER: Looks like the City has something to add.

SUPERVISOR BRADLEY: We're checking records.

MR. PHILLIPS: Do you have - why didn't you bring a copy here?

MR. MCINTYRE: I've just been checking the Internet.

MR. PHILLIPS: No, I'm saying but, it's traditional when you got a bunch of plans, they make four or five or six sets,

they bring them down, they get them stamped approved. There's always a copy for the client, there's a copy for the architect. If it was really a bona fide compliance, I can't believe you wouldn't have come down here with a copy of them.

MR. BARRANCO: Mr. McIntyre, can you get a permit number, can you get the permit number?

MR. MCINTYRE: Yes, let, I think I know it by heart, 0871024 I believe. But let me call my general contractor right now, but it's, the plans are in. I don't have this.

CHAIR SCHERER: Okay, yes, we'll go on to the next case and then come back.

SUPERVISOR BRADLEY: That's what I was going to suggest. That we're checking too.

CHAIR SCHERER: Okay.

[The Board heard another case and returned to this case at 3:28]

MS. PARIS: If you'll return to page one.

CHAIR SCHERER: Okay, back to page one.

MS. PARIS: Back to page one, we will revisit case CE05121325, 301 Seabreeze Boulevard, owner, Crazy Gregg's Marina LLC.

MR. BARRANCO: Crazy Gregg.

CHAIR SCHERER: Okay. So, when we left there was no plan submitted.

MR. MCINTYRE: I called my general contractor, when they

turned in for the roof permit, the application for the roof permit, which is also being required, the plans were left at that point so the roof permit was supposed to be applied for and then plans would be submitted.

CHAIR SCHERER: The roof permit is part of the whole plan though.

MR. MCINTYRE: Right.

CHAIR SCHERER: It's not a separate roof permit. So it's a permit that goes in for the whole building. There's not a separate roof permit.

MR. MCINTYRE: Right, plans were turned in. The general contractor said last Thursday they got turned in.

CHAIR SCHERER: Okay.

INSPECTOR SMILEN: Gerry Smilen, building Inspector with the City of Fort Lauderdale. We don't have any record of even a roofing permit being applied for, so if we can get a number or something that we can try crosschecking it, but at this point we can't verify that.

MR. WEYMOUTH: He mentioned earlier he had the number. Did you run the number that he gave you for the permit?

MR. WEYMOUTH: Can we check [inaudible]

INSPECTOR SMILEN: I didn't get the number. Do you have the number?

MR. MCINTYRE: I ran it right before I came here on the Internet and it didn't show anything.

MR. PHILLIPS: I mean, when you apply for a roofing permit a roofer usually goes there, he fills it out, shows how many squares there are.

CHAIR SCHERER: This isn't a roofing permit.

MR. PHILLIPS: No, and it doesn't, you don't have to have architectural plans for a roofing permit. Over the years I've seen that people often there's no permit they run out and get a roofing permit, here's my permit.

I mean, it seems to me that the permit that they need for the bathrooms, for the hurricane permits -

MR. MCINTYRE: There are no bathrooms. There are no bathrooms.

MR. PHILLIPS: - everything, the roof structure, not the roof tar and whatever it is, needs a much more comprehensive permit application with plans from an architect or an engineer. [inaudible] What architect submitted the roofing permit that you're referring to?

MR. MCINTYRE: Bertram Lewers.

MR. PHILLIPS: He's actually the architect?

MR. MCINTYRE: Yes.

MR. PHILLIPS: He applied for the roofing permit.

MR. MCINTYRE: No, no, no. The -

MR. PHILLIPS: The roofer used -

MR. MCINTYRE: Royal Blue Roofing is the roofer that's being used. John McGowan is the contractor.

MR. PHILLIPS: Okay, and they, it's your testimony that they used, they applied for that permit using Bertram's architectural renderings to get a roofing permit?

MR. MCINTYRE: There was an application that they also provided. There was an application for the permit that Royal Blue turned in also.

MR. PHILLIPS: With Bertram's plans?

MR. MCINTYRE: Yes.

MS. HALE: Do you know where those were turned in? Oh -

CHAIR SCHERER: Gerry, you found something?

INSPECTOR SMILEN: Gerry Smilen, building inspector, City of Fort Lauderdale. No, we don't have any type of a quote unquote, roofing permit. The only thing we have is permit number 08071204 which again, we show was taken out in February for corrections and nothing was ever resubmitted. Is that number correct to you?

MR. MCINTYRE: That's the correct number.

INSPECTOR SMILEN: Okay, as far as what we have, we don't, we can try to put it in again but we do not have any record of any plans being resubmitted at this point.

CHAIR SCHERER: Did you get a receipt? Did your general contractor get a permit receipt?

MR. MCINTYRE: No.

MR. PHILLIPS: I would have strongly suggested that you come in with Mr. Bertram and your contractor showing us

sealed, the plans that fully encompass -

MR. MCINTYRE: Well, I've got to find them from the City. I've got to go back to the Building Department to find out where they're at.

MR. PHILLIPS: Well, forget about the Building Department. But your professionals in, with the plans that fully encompass the four specific allegations that's been before this case for so long. I mean -

CHAIR SCHERER: Thirteen -

MR. PHILLIPS: - some might think that you're just getting a roofing permit just to stall for more time.

MR. MCINTYRE: No, I, he turned in -

MR. PHILLIPS: Rather than address the -

MR. MCINTYRE: - every single item was addressed. Every single item, I was watching the Internet waiting for it to get passed, I'm thinking maybe it's going to get passed before I have to come in here.

CHAIR SCHERER: Yes, but nothing was submitted -

MR. WEYMOUTH: But it's never gone back in to the Building Department since February.

CHAIR SCHERER: - so what are you looking at?

MR. MCINTYRE: I was looking online where you do the property search and you see the plan review. I'm waiting to see the dates -

CHAIR SCHERER: Yes, but there's nothing even submitted.

MR. MCINTYRE: No, it is submitted, that's what I'm telling you.

CHAIR SCHERER: I mean, without looking at it myself, I don't -

MR. PHILLIPS: Could we make - could we make a requirement -

MR. BARRANCO: Have you ever submitted a set of drawings to the City of Fort Lauderdale that got lost? Does it ever happen? I mean, they make mistakes. I've been through it. It's happened.

MR. MCINTYRE: I can tell you that I can tell you that I've sat there for three hours while they were looking for them before.

MR. BARRANCO: I believe him. I believe his contractor.

CHAIR SCHERER: Alright Chris.

MR. AUGUSTIN: Yes, we just cross referenced with Royal Blue Enterprises, which is the roofing contractor, I believe that's who you were speaking about, and the last permit application that was made there was for totally, there is nothing for your address, which is 301 Seabreeze.

MR. MCINTYRE: Well, you're not showing it, maybe it's sitting somewhere.

CHAIR SCHERER: What about the general contractor?

MR. AUGUSTIN: Yes, when you drop off a permit application a permit review number, plan review number is

given to you at that time. When we accepted -

MR. MCINTYRE: I'm going to get that number.

MR. AUGUSTIN: If you can get the number -

MR. MCINTYRE: I'm going to get the number, okay.

MR. AUGUSTIN: - that would certainly help us. Because to this point, it's not showing.

MR. WEYMOUTH: Wouldn't that be the initial submission Mr. Augustin, not if he's resubmitting with comments, which I think is what he's saying he did.

MR. AUGUSTIN: Well, he's stating two things. He says that he's done a, resubmitting the original plans and also submitting a permit application for a roof.

MR. WEYMOUTH: So you're saying the roof permit -

MR. MCINTYRE: That was one of the requirements on the notes when I got kicked back. One of the requirements was that I needed a permit for the roof. So that's part of being turned back in.

MR. WEYMOUTH: The roof permit will get a separate permit number; it will get an 09 number.

MR. AUGUSTIN: Correct.

CHAIR SCHERER: So when it got kicked back in February-

MR. MCINTYRE: One of the requirements was that I needed a roofing permit. That's why we're also applying for the roofing permit and getting the plans back in.

MR. BARRANCO: Your GC's got you in a lot of hot water

right now and if the guy were here he could answered all this, maybe pull out a receipt or something. But I just have a feeling the truth is with the GC. And if he's telling you he submitted it maybe he did, maybe he did, maybe the City lost it. It's happened.

MR. MCINTYRE: Let me try and get a number whatever this number is.

MR. PHILLIPS: Can I make a suggestion? Can my, can we give a 30-day extension with the requirement that his architect and his contractor come in here with actual proof, of receipts, sealed plans. The plans have to have been sealed if they've been submitted to the City like you said.

MR. MCINTYRE: Yes, they have.

MR. PHILLIPS: It's going to have the date on it. And put the burden upon his architect and his contractor to come in here and show us that they've been timely in complying with this.

MR. WEYMOUTH: That's what we did last meeting.

CHAIR SCHERER: Well, we did that for the -

MR. PHILLIPS: No, last time I said submit plans in a timely fashion. There's built-in excuses here. Well, the general contractor this, the roofing, the - let's get the contractor and the architect and him in here with the actual plans.

CHAIR SCHERER: Why don't you try to go get the number

first? We'll move on to the next case and we'll come back to you again.

MR. BARRANCO: See if you get the GC in here.

MR. PHILLIPS: Alright?

MR. HOLLAND: We'll take his statement by phone; I think that's okay.

MR. PHILLIPS: I don't think we've ever done that.

MR. BARRANCO: No.

CHAIR SCHERER: Okay.

MR. PHILLIPS: I like it though. Even judges don't allow you to do that.

[The Board heard another case and returned to this case at 3:50]

CHAIR SCHERER: Yes, looks like Mr. McIntyre's back and maybe has some information for us.

MR. MCINTYRE: I don't have the number right now. The general contractor was trying to get it from the roofer and they're trying to contact him right now. But, I don't have the number, but, he's -

MR. PHILLIPS: Mr. McIntyre?

MR. MCINTYRE: Yes?

MR. PHILLIPS: What's your first name?

MR. MCINTYRE: Robert.

MR. PHILLIPS: Can you generally explain how the building plans, as you understand it, are going to allow the pre-

manufactured ticket booth that was rebuilt and air-conditioning, how that's going to be allowed? Rather than just saying you applied for a roofing permit, how are you ever going to comply?

MR. MCINTYRE: I've turned in plans and I've gone through a pretty lengthy process here on how to get through this and get this whole thing done. Every time I've turned in plans I've kind of taken the direction of the City on what I should do. And it's gone through a couple of different changes, some of them pretty big changes.

MR. PHILLIPS: Has the City led you to believe that you know what, if you do this, that and the other thing we're going to allow your pre-manufactured ticket booth to stay there?

MR. HOLLAND: Yes, Gerry?

MR. PHILLIPS: Is their hope, is there any hope on the horizon -

MR. MCINTYRE: Yes.

MR. PHILLIPS: - that this is ultimately going to be approved?

MR. MCINTYRE: I thought with the plans that I think are turned in right now, I didn't think I would have to come in here again. Now, I've got to find those plans but I thought I was going to get permits and everything would be approved because I've addressed every line item they've given me and

they're addressed and I think I've passed them. I've done what they've asked.

MR. BARRANCO: Gerry?

INSPECTOR SMILEN: Okay, just to give a little history here, being a little over a year on this case. This whole thing started with a pre-manufactured shed-type building that's being used for ticket sales, and it was done legally. There was damage by hurricane Wilma and the building was altered and repaired and as a result the structure or the building which had, was exempt from the Florida Building Code-

MR. BARRANCO: It's not exempt.

INSPECTOR SMILEN: - is not exempt any more.

MR. BARRANCO: It's never exempt from the Florida Building Code.

INSPECTOR SMILEN: Well.

MR. BARRANCO: A pre-manufactured building has to meet Florida Building Code, it's just pre-approved.

INSPECTOR SMILEN: Well, but it -

MR. BARRANCO: It's engineered and pre-approved.

CHAIR SCHERER: But the City doesn't look, the City has an NOA.

INSPECTOR SMILEN: It gets approved under its own, it gets certified by its own engineering and an engineer that that is certifying the building. What's happening here now is where Mr. McIntyre's original direction was to just buy

another structured just like that, place it, remove this one and place the new one on there. I believe he even said that he had purchased one.

MR. MCINTYRE: I put a 50% deposit on one.

INSPECTOR SMILEN: But the problem is the zoning had changed in that area so as a result, once he moved that existing structure out of there, the only thing he could put in there would be a structure about 2-foot wide which would be kind of tough to sell anything out of there even get a human being in there.

So I believe Mr. McIntyre has gone in a different direction where he says okay, now I have to take existing building, which was not really following the Florida Building Code, now I have to make that comply with the Florida Building Code. And that's where all his, the problems have come up.

Now, the City isn't, doesn't lead anybody, the City is just going to go ahead and tell them what you can do and what you can't do and the Zoning Department was very helpful with Mr. McIntyre and this is the direction that he had to take. However, we don't really know that there's any guarantee that this structure will ever comply with the Florida Building Code and the requirements of a high velocity hurricane zone.

MR. MCINTYRE: But you don't know that until I, until we see the plans that are turned in and then -

INSPECTOR SMILEN: Well, the problem is, we don't have

any plans.

MR. WEYMOUTH: Can I ask a quick question? And we talked about this at the last meeting that the building has to comply with an NOA and one thing or another. My assumption is that when this was originally placed there as a storage unit for paddles or for -

MR. MCINTYRE: It never was.

MR. WEYMOUTH: Huh?

MR. MCINTYRE: It never was storage unit; it's always been a sales booth from back in the 80s.

INSPECTOR SMILEN: Yes, that is correct.

MR. WEYMOUTH: So, when it was placed there it came with an air conditioner.

INSPECTOR SMILEN: There was some sort of a unit in it.

MR. MCINTYRE: It's pretty hot out there.

INSPECTOR SMILEN: I believe, I believe [inaudible]

MR. WEYMOUTH: It came with an air conditioner. They haven't altered the building to add air conditioning to the building?

INSPECTOR SMILEN: I'm sorry?

MR. WEYMOUTH: They have not altered the building to add air conditioning. When that building was originally placed there it had an air conditioner, it had the windows that are there. Because if any of those modifications have been done then it voids the NOA.

CHAIR SCHERER: I remember they added an air conditioner.

MR. PHILLIPS: Well, the fourth allegation is that they didn't and they added it.

CHAIR SCHERER: I thought they added -

MR. MCINTYRE: No, there was an air conditioner; I'm not changing anything on the building, nothing's, windows -

MR. PHILLIPS: Well, it says the City -

CHAIR SCHERER: Air conditioning was installed without obtaining the required permit. It's on the, it's on the -

MR. WEYMOUTH: Once that's done, it virtually voids the NOA because you have altered a pre-manufactured building.

MR. PHILLIPS: What does NOA stand for?

MR. WEYMOUTH: Notice of Acceptance.

MR. PHILLIPS: Okay.

MR. WEYMOUTH: It's the testing method through Dade County that contractors all recognize.

MR. PHILLIPS: For like doors, Dade County approves.

MR. WEYMOUTH: Door, windows, roof shingles.

MR. HOLLAND: Product approval.

MR. MCINTYRE: I've turned in plans with and it's gone through zoning and then the Building Department had notes on it. And I've gone through each one of those notes and addressed each one of the notes so it should be satisfactory when these plans get turned back in.

CHAIR SCHERER: So, you missed the conversation that we

were having a little bit ago, but it's basically, I asked the question: if we order a demolition what, how long does that take? And on average, it probably takes 60 to 120 days.

You just heard another case, we ordered the demolition, they appealed it. Two years later they're still talking about demolishing the building. I think this is going to keep coming back in front of us and keep coming back in front of us because the Building Department is probably going to have a very difficult time approving a pre-manufactured building modifications when they're not the manufacturer. So, and it's going to keep coming in front of us and you've had the drawings -

MR. MCINTYRE: Well, I, I just addressed all the issues that they've -

CHAIR SCHERER: Hang on, you've had the drawings now, back in your possession since February and every month we give you another 30 days, another 30 days, another 30 days, another 30 days. And I have the feeling it's just going to keep coming back.

I mean, you say you've submitted something but they don't have anything. I'm not saying, I'm not saying that you didn't, I'm not saying that you did. I'm just stating the facts: they don't have it, you say you had it, it's not there. The roofer doesn't have anything on record either.

MR. PHILLIPS: Mr. Chair, can I ask Mr. [inaudible]

CHAIR SCHERER: Sure.

MR. PHILLIPS: If you, this came up in the Code Board years ago, I call them the Ted Shed cases. The Ted Shed and the jungle gyms. You know, that put them in the backyards, they didn't have permits and they weren't -

MR. WEYMOUTH: Temporary structures.

MR. PHILLIPS: They were temporary structures and they weren't bolted to the ground and we're scratching our heads well how can you get, how come a kid can't have a play set in the back and what about Ted's Sheds selling them and so, if he wanted to put a new shed structure there, I don't even know if it would comply.

CHAIR SCHERER: It doesn't pass the zoning

MR. PHILLIPS: If it would comply.

CHAIR SCHERER: It doesn't, it doesn't pass zoning.

MR. PHILLIPS: That's, that was the original.

CHAIR SCHERER: That was one of the problems.

MR. PHILLIPS: I guess it never could and then his suggestion -

CHAIR SCHERER: No it, it -.

MR. PHILLIPS: Then what if he considered getting a variance based upon a hardship -

CHAIR SCHERER: That's completely out of us.

MR. PHILLIPS: Well -

CHAIR SCHERER: That's what I'm saying. So he would have

to go and appeal our decision to some other board. There's no way that we can do anything for him.

MR. PHILLIPS: Well, no, the only appeal from us is certiorari to Circuit Court, I believe.

CHAIR SCHERER: Exactly.

MR. PHILLIPS: But what if he applied for a new shed, I don't know, however it's designed that's his architect, and they turned him down and he applied to the Board of Adjustment for a hardship based upon, based upon it's been changed, we've tried. Certainly it's not a life safety issue and certainly this is, you know in today's economy, if this company is providing something for people to do and it's not a life safety issue and it's been there for a long time and it's more technical than it is danger, then, what if he applied for a new shed goes to the Board of Adjustment, was turned down, then I would feel more comfortable saying hey pal -

CHAIR SCHERER: He did. He already did that.

MR. PHILLIPS: You've exhausted -

CHAIR SCHERER: You understand he did that.

MR. HOLLAND: He didn't go to the Board of -

MR. MCINTYRE: I didn't go to the Board of Adjustments.

MS. HALE: No.

CHAIR SCHERER: No, he submitted a Ted's Shed, it was rejected through zoning. That rejection then could have gone to a variance, you could have tried to get a variance,

however, you were still in front of us regarding the unsafe structure, so -

MR. MCINTYRE: I was meeting City officials and I was led to try to this way.

MR. PHILLIPS: First of all, you need he needs to hire a lawyer that knows what's going on.

MR. HOLLAND: Well, I, you know -

MR. PHILLIPS: Number one, you represent yourself this is what's happening. But I would be comfortable if he, if he went, perhaps applied for new shed, was turned down, go for Board of Adjustment. If it came back to us with the same problems: he doesn't have the plans; he doesn't have the blue roof permit and say to him, hey, we're not coming back here anymore and to give the demolition order.

At least he will get some straight answers on whether or not he has, what plans he's submitted to the City. And what the comments of the City has been, so we know whether or not he has applied sealed plans to the City for a permit to fix the older structure that's there right now. So he's trying to keep the old shed that may have been allowed back in 1980 which I seriously doubt if he's ever going to be able to have the City approve that.

MR. HOLLAND: I disagree. I think, with all due respects, I've been at all these, I believe I've caught every one of these hearings on this particular case, and I think we have a

lot of staff pulled in explaining changes in reviewers at the Building Department and glitches after he was given encouragement that he was moving forward.

Based on that knowledge I have, having attended all these meetings I think, granted there was a mistake made as far as him coming, and what he had with him today, but I think we, I recommend we give him the benefit of the doubt -

MR. PHILLIPS: I agree.

MR. HOLLAND: - and allow something to proceed on the course it's taking with the building officials. It may not happen, but I feel that another 30 days and we might see something happen and this might go away.

MR. MCINTYRE: I'm hoping in 30 days I never come here again.

MR. PHILLIPS: I agreed with you that, I think he warrants, now I, no one's giving you legal vice about Board of Adjustments or anything but -

MR. HOLLAND: I did before.

MR. PHILLIPS: I just wish there was a way that he could come back to us.

MS. HALE: Well, I guess it's hire an attorney, right?

MR. BARRANCO: Well, before anybody makes a motion -

CHAIR SCHERER: Gerry?

MR. BARRANCO: - be sure that you add the caveat -

CHAIR SCHERER: Hang on, Ginger-

MR. BARRANCO: - that he show up with the GC, his architect, an attorney, whatever you have to do to convince this Board because I don't think anybody up here is willing to give you another extension after this. If you can't take that step you're in dire straits.

MR. PHILLIPS: Good point.

CHAIR SCHERER: Gerry?

MR. MCINTYRE: Point taken.

INSPECTOR SMILEN: The only thing I can say is Building Department enforces the Building Code and that's pretty much what we need to concentrate and focus on here. We have a situation where we don't have, we're saying we don't have the plans resubmitted, and this is back since February.

I know Mr. McIntyre has been working diligently but I just don't see where this is going and you know, what Mr. McIntyre does as far as his particular situation, whether he hires an attorney or anything, I don't really think it's the concern of this hearing.

I think our concern is we have a situation, he does not have a permit, he's got a, he's got something that is deemed, a structure that's deemed unsafe, and I think we need to act on that. And that's what I think we need to focus on.

CHAIR SCHERER: Just so I know, when they were building the roof, wasn't it red tagged?

INSPECTOR SMILEN: There was a stop work order put on

there I believe.

CHAIR SCHERER: Before they finished.

INSPECTOR SMILEN: While it was in progress.

MS. HALE: How old, exactly, is this structure?

MR. WEYMOUTH: Very.

MR. MCINTYRE: '85, something like that.

MS. HALE: '85? Okay.

MR. MCINTYRE: Around '85.

MR. PHILLIPS: Do you know Crazy Gregg?

MR. MCINTYRE: I used to drive his boat.

MR. PHILLIPS: Are you the tenant or the owner?

MR. MCINTYRE: I'm the owner now.

MR. PHILLIPS: Of the land or the business?

MR. MCINTYRE: The land.

MR. PHILLIPS: Okay, so the buck stops with you.

MS. HALE: Now, you have met all the ADA requirements because they're not on this particular sheet of paper we have today.

MR. MCINTYRE: Yes Ma'am.

MS. HALE: You've met all of them.

MR. MCINTYRE: Yes.

MR. PHILLIPS: ADA?

MS. HALE: ADA.

MR. PHILLIPS: For water scooters?

MR. MCINTYRE: Don't even, please, don't even start.

MS. HALE: Yes, I know.

MR. PHILLIPS: ADA for water scooters. [Inaudible]

MR. HOLLAND: Jack, you missed some of the meetings okay, give us a break.

MR. MCINTYRE: I've got them all.

MS. HALE: Yes. So, you have met all of their requirements, okay.

MR. MCINTYRE: Yes ma'am.

CHAIR SCHERER: Well, we don't know, we don't know if he's met them. He hasn't resubmitted the plans,

MR. MCINTYRE: I've got a ramp [inaudible]

CHAIR SCHERER: He has not resubmitted the plans, so we don't know.

MR. MCINTYRE: I've got counters, ADA counters.

MS. HALE: Well, they disappeared from the sheet, that's why I asked if - there's nothing about ADA on the sheet.

MR. JARRETT: No, that was from the Building Department that was [inaudible] code compliance.

CHAIR SCHERER: Yes, those are the comments for the building, it's not unsafe.

MR. MCINTYRE: I have ADA required ramps and retractable countertops and all blue painted, stickers all over them.

MS. HALE: Has anybody used them so far?

MR. MCINTYRE: No, they're not, they're in the plans, I've got them in the plans.

MR. PHILLIPS: Can I make a motion Mr. Chairman?

CHAIR SCHERER: Sure.

MR. PHILLIPS: I'd like to make a motion that we grant a 30-day extension of time, but with the following requirements: that the respondent come back here with his architect and his general contractor and an attorney if he's retained one, which I certainly hope he would, along with the plans that you're actually referring to and plans review number and receipts, at the next meeting.

MR. MCINTYRE: I hope I'm not here.

CHAIR SCHERER: Okay. We have a motion, is there a second on the motion?

MS. HALE: I'll second that.

MR. HOLLAND: We can't make them conditional; it's got to be in the form of a recommendation if that's a fair -

CHAIR SCHERER: That was a recommendation.

MR. HOLLAND: Okay, that being a recommendation.

CHAIR SCHERER: Jack recommended that.

MR. PHILLIPS: Yes, that's a recommendation, a very strong recommendation.

CHAIR SCHERER: Any more discussion? I mean, I'm just, been here for 13 months now.

MR. MCINTYRE: You don't have to tell me, I - every day, I'm in here, every day, I'm in here.

CHAIR SCHERER: When you take the plans out in February

and it's now August, haven't been resubmitted until Thursday, even if you did submit them last Thursday or Friday, whenever.

MR. MCINTYRE: I had to go through and meet with people and figure out -

CHAIR SCHERER: I understand.

MR. MCINTYRE: - that I don't need a bathroom, I don't you know, need certain things and that all takes time.

MR. HOLLAND: There have been mitigating circumstances, it's an unusual case no doubt about it.

MR. HOLLAND: I agree, which is exactly why he's got 13 months worth of extensions so far.

MR. HOLLAND: It's a weird deal.

MS. HALE: So he's going to have 14.

CHAIR SCHERER: So he's going to get 14 the way it looks. So, no more discussion? All those in favor say aye.

MR. PHILLIPS, MR. HOLLAND, MR. BARRANCO, MS. HALE, MR. JARRETT: Aye.

CHAIR SCHERER: All those opposed?

CHAIR SCHERER: One opposition, that's it.

MR. WEYMOUTH: Two.

CHAIR SCHERER: Two.

MR. PHILLIPS: Two?

CHAIR SCHERER: Two opposed.

[Mr. Weymouth and Chair Scherer voted no]

CHAIR SCHERER: Okay?

MS. PARIS: Thank you sir, we're done. Motion to adjourn?

CHAIR SCHERER: That's it?

MS. PARIS: Unless you'd like to continue, we can talk more about communication to the City Commission will be [inaudible] We can do more stuff.

MR. BARRANCO: It's about time that the Board started voting yea and nay. It seems like we're always yea, yea, yea.

MR. BARRANCO: It's good.

MR. HOLLAND: Got a few nays in there.

MR. BARRANCO: That's the way it should be.

MS. PARIS: Okay. Well, thank you.

CHAIR SCHERER: Alright.

MS. PARIS: We're done.

2.

Case: CE07040050

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Stark Equity Group

1340 NW 19 Avenue

MS. PARIS: Our next case will be on page two, this is an old business case. Case CE07040050, the inspector is Wayne Strawn, presented by Gerry Smilen. The address is 1340 Northwest 19th Avenue, the owner is Stark Equity Group LLC.

We have service by posting on the property 7/24/09, advertising in Daily Business Review 8/7/09 and 8/14/09.

Certified mail and violations as noted in the agenda.

This case was first heard at the 2/19/09 USB hearing. At that time the USB Board granted a 30-day extension to the 3/19/09 USB hearing with the stipulation that the owner return with written, detailed proposals from his general contractor and his architect and his engineer of their plan for rehabilitation.

At the 3/19/09 USB hearing the Board granted a 28-day extension to the 4/16/09 USB hearing with the stipulation that the respondent return with written, detailed proposals from his general contractor, architect and engineer with plans ready to be submitted to the City.

At the 4/16/09 USB hearing the Board granted a 30-day extension to the 5/21/09 USB hearing. At the 5/21/09 USB hearing the Board granted a 60-day extension to the 7/16/09 USB hearing. At the 7/16/09 USB hearing, the Board granted a 30-day extension to the 8/20/09 USB hearing

MR. RICHEL: Mike Richel, general contractor for this project. The architect has the plans. We met with Wayne Strawn and Harry Colton about 10 days ago, 10 to 12 days ago. And the architect's working on the plans; I'm hoping to have them resubmitted by sometime next week.

MR. WEYMOUTH: So, the investigation's been done on -

MR. RICHEL: There were some discrepancies. The plans have been submitted and kicked out two or three times, I

forget. But there were some discrepancies between Graham, the architect, and Wayne and of course Wayne was out of town for an extended period of time so it was impossible for them to meet. So when the architect finally met with Wayne after last month's meeting we found out exactly what Wayne was looking for and now he's incorporating that and we should be good to go.

CHAIR SCHERER: So from the last meeting were the plans in for, at the last meeting?

MR. RICHEL: I'm sorry?

CHAIR SCHERER: Were the plans submitted at the last meeting?

MR. RICHEL: Yes, they were submitted and then kicked back out. And then we were, it was pending -

CHAIR SCHERER: When did they get kicked back out?

MR. RICHEL: I'm sorry?

CHAIR SCHERER: Do you know when they got kicked back out?

MR. RICHEL: I don't. I'd have to look on the -

CHAIR SCHERER: How long had the plans - because that's a big consideration for us - is how long your architect has been working on this.

MR. RICHEL: He may have had them for a few weeks while Wayne, wait a minute, you know what, I'm really not sure. I'd have to look in history on the Internet.

MR. WEYMOUTH: My recollection is they were not submitted. The two guys still had some investigative work. The plans should be a hybrid of what, should reflect what's been done but also should be a hybrid of what needs to be corrected by you.

MR. RICHEL: The plans are, were drawn as to what should be there; we didn't, we couldn't, we didn't discover all of the things that were deficient because there was an addition in the back that we assumed was an existing addition or an approved addition from a previous permit that dates back to, I think the 50s or 60s.

And that back addition was actually a patio and that was a discrepancy that Wayne had with the architect. That that was a patio that was enclosed illegally, we didn't know it. So now we have to, we had to undermine the structure, see what foundation was there, we have to get an engineer out there to certify this, that and the other thing. And that's what we're working on now.

MR. WEYMOUTH: Mr. Richel, the patio has been enclosed during, through a previous renovations?

MR. RICHEL: Yes. Years and years ago.

MR. WEYMOUTH: I have not seen a footprint of the building. If we deem that the patio was done not to code and the patio needs to be corrected -

MR. RICHEL: Exactly.

MR. WEYMOUTH: - how is that going to impact the violation that actually was first in here? In other words is, is, is -

MR. RICHEL: That's all part and parcel of the same. The violation encompassed several illegal additions. There were two or three that were permitted, that, again, they date back years and years ago. Two were permitted and two or three were not permitted - they were illegal. We weren't aware - yes - we were not aware that the one in the very back of the house was an illegally enclosed patio. We thought it was part of the addition that was permitted years ago.

MR. WEYMOUTH: I'm assuming that it's of the architect's opinion that all of this can be corrected and be brought up to code.

MR. RICHEL: Yes, yes. Yes, as a matter of fact, they did put up a CBS block wall to enclose that patio but we did discover there's no footing underneath it so we know that we have to dig out and put a footer there. But again, that's part of what we discovered based on our meeting with Wayne and Harry Colton.

CHAIR SCHERER: Yes, but the original citations back in February, the building has been altered repeatedly without obtaining permits. The alterations include: an addition has been attached to the left exposure of the building, expanding the footprint -

MR. RICHEL: Right.

CHAIR SCHERER: - the porch on the west end of the building has been enclosed without expanding the living, with expanding the living space.

MR. RICHEL: Okay.

CHAIR SCHERER: So which one of those are you talking about that you didn't know about?

MR. RICHEL: That would have been the one on the west end.

CHAIR SCHERER: So, back in February, the first time this was read to us, everybody knew about it.

MR. RICHEL: I'd don't, but the, I don't think the architect ever had the benefit of that report.

CHAIR SCHERER: Okay.

MR. RICHEL: He went out and visited the property. And if you look, if you walk through it, it appears as though there was no illegal addition on the back end. And if, I believe, if my memory serves, when we looked up the existing plans and all the permitted plans from years past, we never saw evidence of a patio that was or was not enclosed. It looked like that was part of the original footprint and to our knowledge the illegal additions were the front porch that was pushed out and the, I guess it would be the south side where the laundry room and bathroom were added.

CHAIR SCHERER: You have anything to add Gerry? How long

the plans have been out maybe would help.

INSPECTOR SMILEN: Okay, Gerry Smilen building inspector, City of Fort Lauderdale presenting for Wayne Strawn. What I have here is, first of all, just to set the record straight the actual permit application was applied and submitted on May 12th of '09. So that timetable isn't that bad considering when the case had started.

Mr. Richel had actually picked up the plans for corrections of the fifth of this month, August and he was, the notification was sent out on July 28th. So it seems like he's been pretty much on top of it. And of course, considering the building and the condition that it was, you're going to run into these situations. As you explore more, as you uncover more you're going to find more things. So as far as the City is concerned we feel that there is enough progress and effort shown here that we would like to work with him.

MR. PHILLIPS: I'd like to make a motion we grant a 90-day extension on this matter.

CHAIR SCHERER: There's a motion. Is there a second on the motion?

MR. BARRANCO: I'll second that.

CHAIR SCHERER: Any discussion on the motion?

MR. WEYMOUTH: Why 90 days?

MR. PHILLIPS: Well it's, well, the time the architect has to come back and follow up with the - wasn't there a

discussion in March about being able to, if they could even shore up a footer under an existing wall? But if they indicate that there is enough progress I don't think 90 days is too long and really too short.

MR. WEYMOUTH: What's the extent of the comments that the City has put with the plans to return to the architect?

INSPECTOR SMILEN: I don't - Gerry Smilen, building inspector, City of Fort Lauderdale. The one comment that we had I guess, is just verifying that the plans reflect what is out there. So I guess there were certain things that were not included in the plans that needed to be verified and addressed on the plans. I don't have the, all of the comments with me on the actual, every person who had reviewed the plans, the different disciplines.

MR. HOLLAND: And this is a question for City staff also: is this one of those cases, and forgive me if I don't recall, that we had discussion about wanting to get destructive investigation on what needed to be done so that it could be built into the plans?

Or is this notes on the drawing the contractor to determine and is the City comfortable proceeding on that basis of you know, pick apart a piece, figure out what's needed and then design? Or is this complete plans on reflecting the fact that this was built incorrectly and knowing what's wrong with it from a foundation standpoint for instance?

SUPERVISOR BRADLEY: Okay, Lin Bradley, Supervisor, City of Fort Lauderdale. There was a meeting with Wayne and this gentleman earlier this week and Gerry's gone to get his laptop. We're going to bring up and read the notes to you to try to answer some of those questions.

CHAIR SCHERER: Okay, well, we have -

SUPERVISOR BRADLEY: I wasn't in on that meeting, so I don't know what took place.

MR. HOLLAND: I heard an awful lot of conversations between Wayne and the contractor, but it seemed like there needed to be a lot of scope determined that should have been dealt with the Building Department on this plans approval.

But it sounded like you said, Mike, you said that there, the plans show what needs to be there from a new construction standpoint I take it?

MR. RICHEL: Yes.

MR. HOLLAND: But it doesn't specifically address what you found doing test pits or anything like that, and what needs to be torn out and replaced to comply with the code.

MR. RICHEL: It was, it was actually the opinion of the architect that we should design it as it needs to be built and whatever discrepancies that we find we should take the remedial action to make them - to make them [inaudible]

MR. HOLLAND: Okay, I don't know if staff heard that explanation. That's what I heard the first time. That to me

doesn't seem like the best way to proceed on these matters but if that's the standard or the convention that the City uses on these things, maybe that that's one approach, but that to me doesn't really address the deficiencies of this structure.

MR. JARRETT: I have a question for Jack. Jack, I also question the 90-day extension; would you consider reducing that?

MR. PHILLIPS: I mean, if the problem is, like 60 days -

MR. WEYMOUTH: My concern is, if it's not a major thing to get the permit out and going I'd rather keep the fire under them instead of giving them 90 days. Again, I know you're just the contractor, I don't believe the owner is here. There doesn't seem to be a whole lot of motivation to get this thing to the end and my concern is I think they are diligently trying to pursue this, but I just don't want it to keep getting further down the road. That's my only concern.

MR. PHILLIPS: I'll be glad to modify the motion to 60 days.

MR. WEYMOUTH: Well.

MR. HOLLAND: Can we hear from staff on the -

CHAIR SCHERER: Sure, go ahead Gerry.

INSPECTOR SMILEN: Okay. Gerry Smilen, building inspector, City of Fort Lauderdale. I do have some notes here. For instance, there was a concern about the elevation above mean sea level for all first floors, that was one

concern. Another one was provide floors showing all additions, windows and clear understanding of work done without a permit, which is what I had been elaborating on before. Need a separate application for required for the shutters which I see that they did. Provide the type of occupancy and construction on plans and code in affect on plans: basic wind speed, exposure, etcetera. Structural calculations by the designer of record required and provide table of contents impressed with seal of designer. So it seems like pretty standard stuff here.

CHAIR SCHERER: Standard stuff as in easy to respond to or they should have done that in the first place.

INSPECTOR SMILEN: Well, it's a requirement that should probably, it probably would have been easier if it was done there were certain things that were left out and not done [inaudible] probably.

MR. PHILLIPS: For example, if they need a survey with elevation certificates so they can calculate if there's green space requirements, that's going to take four, five or six weeks to get a surveyor.

INSPECTOR SMILEN: Well, I think they're more concerned about the elevations on the finished floor compared to what the FEMA requirements are for flood plain elevations.

MR. WEYMOUTH: If I can get back with the architect right now -

MR. RICHEL: The elevation certificate was turned in with the last round and it did pass zoning. I don't know if zoning looks at the elevation or if the Building Department, but it was approved by zoning. And the elevation certificate is part of the plans now. That was submitted before the last time.

INSPECTOR SMILEN: Okay. Well, that was, that might have been. As far as, well actually, according to this it's, this was the one that was rejected on July 27th. So, I don't know, have you resubmitted the plans, because you did take them out on 8/5. I don't see them resubmitted.

MR. RICHEL: I know I got the elevation certificate on, I know that they're attached to the plans. Now whether it went in with the last go-round or they're attached now I can't remember unfortunately.

INSPECTOR SMILEN: Okay, but you're still holding something, right? You haven't turned everything back in, because -

MR. RICHEL: Oh, we have the plans back.

MR. WEYMOUTH: The plan's with the architects?

INSPECTOR SMILEN: Right. So we don't have the whole package is not back in at this point.

MR. RICHEL: Right. I thought the elevation certificate went back in the last time but again it's been, we've gone back and forth so many times it's hard for me to remember.

MR. WEYMOUTH: Do you recall offhand what the elevation

is?

MR. RICHEL: I have - I didn't even look.

CHAIR SCHERER: So -

MR. RICHEL: It was the existing elevation, I just assumed it's, you know, we can't jack the house up, so it's going to be accepted.

CHAIR SCHERER: Gerry, go ahead.

INSPECTOR SMILEN: Gerry Smilen, building inspector, City of Fort Lauderdale. Here on July 22nd it was required that he's supposed to have two valid surveys. And this was passed on the 22nd so you do have the surveys and that would probably include the elevation certificate.

MR. PHILLIPS: So, the surveys were done.

MR. RICHEL: Yes.

INSPECTOR SMILEN: Well, what they have to do is, these also have to be reflected on the plans as well as the finished floor elevation. Probably weren't noted on there; that is a requirement for a permit.

CHAIR SCHERER: Okay, so, we have a 90-day motion currently, is there, well, I guess it's a 60-day now so -

MR. PHILLIPS: You know, I think, I think 90-day is reasonable. You're dealing with another person, an architect. I don't think they're that busy nowadays but it takes time to get back from the architect and coordinate with the building and it's, it just seemed to me that 90 days is relatively

short in this, in a case like this so -

MR. WEYMOUTH: Are the plans physically at the architect's?

MR. RICHEL: Yes.

MR. HOLLAND: Are you showing any demolition in those plans?

MR. RICHEL: No.

MR. HOLLAND: So please understand that these plans are going in with all new construction. There's nothing specific about tear-out. Now are -

MR. WEYMOUTH: Standard footnotes.

MR. HOLLAND: Now Gerry, are you guys also do the building inspection too, do you mix and match and?

INSPECTOR SMILEN: Now we do not. We just stay on the building code violations, but we don't do a specific inspection since it's structural.

MR. PHILLIPS: I'm also assuming that the architect or the civil engineer is going to put in the plans what needs to be done for after-the-fact or as-builts, including demolition of things that can't be brought up to code.

MR. HOLLAND: Yes, that's, I think that's an assumption.

MR. PHILLIPS: But if that's not the case then I would -

MR. WEYMOUTH: That's what he's trying to raise and I don't think that's the case. I think from what Mr. Richel's saying - and correct me if I'm wrong - is that he wants the

plans to reflect how it should be built.

MR. HOLLAND: That's the -

MR. WEYMOUTH: So if it calls for an 8 x 16 footer and they've got an 8 x 12 footer it's incumbent on him to try to figure out how to bring it up to code.

MR. RICHEL: Exactly.

MR. HOLLAND: Now, how does this all gets flagged to the Inspector on this job? I see that the Building Department is getting a pile of something laid on their lap and they got to sort it all out.

MR. PHILLIPS: Rubble.

MR. HOLLAND: And we asked, if I'm not mistaken, and I could be wrong, it could be another case, I thought we asked for some destructive testing or test pitting or whatever, to find out what was specifically there to see -

MR. PHILLIPS: Isn't that beyond our -

CHAIR SCHERER: Yes, Gerry -

MR. PHILLIPS: - purview though? It seems to me once they get the permits approved it goes to the Building Department. If they don't do what they're supposed to do then-

MR. HOLLAND: But I'm concerned that the Building Department [inaudible]

CHAIR SCHERER: Maybe Gerry's got some information here.

INSPECTOR SMILEN: First of all, just for the record, as far as who's responsible for the proper design and the way the

existing is handled according to whatever new design is needed, that is all on the responsibility of the design professional, the architect or the engineer. It would not be up to this gentleman over here.

This gentleman here is just going to implement whatever is required on the plans. So if you needed an 8 x 16 footer and it's an 8 x 12, it's the design professional's responsibility to show how that's going to be done, whether that's a removal, a replacement, an add-on or anything else.

So this would all be shown in a typical plan in this type of situation would pretty much be very explanatory as far as showing existing and new, what needs to be added, what needs to be removed, all this needs to be addressed. And it will not be passed.

And the other thing is, if it doesn't reflect what is out there in the field, the Inspector that does the field inspection will look at the plan and say this isn't what it is and he will fail it, so -

MR. HOLLAND: All the way down to the bottom of footing?

INSPECTOR SMILEN: If a footer needs to be redone, adjusted, modified, altered or anything, that will be part of his job. It has to be shown on there.

MR. PHILLIPS: I think the surveyor's going to have to come back after the fact and do a follow-up survey [inaudible] footers.

CHAIR SCHERER: We're so far beyond what we need to be talking about right now.

MR. PHILLIPS: Anyway, that's why I said 90 days.

CHAIR SCHERER: But maybe Chris, you have something to add?

MR. HOLLAND: Yes, that would be good.

MR. AUGUSTIN: Yes, Chris Augustin, Building Official, for City of Fort Lauderdale. I think the question's come up, basically, if there's a foundation that's there it's been poured years ago, how do we know what's there as far as the size and the reinforcing?

The Building Department at time of plan review requires a letter from the architect or engineer certifying everything that is concealed, if they wish to keep it. So, such as this foundation, there's obviously no way that the building inspector is going to be able to have x-ray vision and look through the ground. So it is up to the architect or engineer whether what means of testing he uses to feel confident in signing such a document stating that work is as per the approved plans.

CHAIR SCHERER: Okay.

MR. WEYMOUTH: Is that's one of the comments that has gone back to the architect, to supply that letter? Or has he supplied that letter already?

MS. HALE: Is that a general item that would be placed in

this presentation from the architect?

MR. HOLLAND: Well, let's get one question at a time if we may.

INSPECTOR SMILEN: Gerry Smilen, Building Department. What I'm, what I see here as one of the main comments is: plan does not reflect all additions per code officer, Wayne Strawn. So, in other words, we have a coordination here that the first thing that has to be addressed is that all the violations are addressed and shown on the plans.

Then, from there, we work to see what can be saved and what cannot be saved and of course Mr. Augustin is absolutely correct as far as anything that we can't see it is the responsibility of the engineer, and if the engineer is not comfortable with what's there, then he will have it removed and redone.

CHAIR SCHERER: Okay. So, we have a motion and a second. I think we're ready to take a vote; everybody knows what they want to do. If you want to vote for it, go, if you don't, don't.

MR. JARRETT: What did it end up -

CHAIR SCHERER: So, is it a 60 or a 90-day extension?

MR. PHILLIPS: I said 90.

MS. WALD: We've got 90.

CHAIR SCHERER: So we have a 90, we have a second on the 90. No more discussion on the 90. All those in favor of a

90-day extension please say aye.

MR. PHILLIPS, MR. BARRANCO: Aye.

CHAIR SCHERER: That's two. All those opposed, say nay.

MR. HOLLAND, MR. WEYMOUTH, MS. HALE, MR. JARRETT, CHAIR
SCHERER: Nay.

CHAIR SCHERER: The nays have it. Now we're back to
making another motion. So, what somebody else like to make an
amended motion?

MS. HALE: I'll make an amended motion.

MR. PHILLIPS: No, new motion.

MR. BARRANCO: Make a new motion.

MR. PHILLIPS: It's a new motion.

CHAIR SCHERER: A new motion, I'm sorry, new motion, not
amended.

MS. HALE: I'll make a new motion for 60 days.

MR. PHILLIPS: I'll second that motion.

CHAIR SCHERER: There's a motion and a second. Any
discussion on the motion? No. All those in favor say aye.

MR. PHILLIPS, MR. HOLLAND, MR. BARRANCO, MS. HALE, MR.
JARRETT, CHAIR SCHERER: Aye.

CHAIR SCHERER: All opposed?

MR. WEYMOUTH: Nay.

CHAIR SCHERER: One. Motion passes, so you got 60 days.

MR. RICHEL: Thank you.

CHAIR SCHERER: Thank you.

MR. PHILLIPS: Good luck.

[At 3:28 the Board returned to the Crazy Gregg's case]

3. Case: CE09032197

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Al Preston Jackson

1800 NW 3 Court

MS. PARIS: If you'll turn to page four of your agenda.

CHAIR SCHERER: Page four.

MS. PARIS: This is also an old business case. Case CE09032197. The inspector is Wayne Strawn, presented by Gerry Smilen. The address is 1800 Northwest 3rd Court, the owner is Al Preston Jackson.

We have service by posting on the property 6/30/09 advertising in the Daily Business Review 8/7/09 and 8/14/09. Certified mail and violations as noted in the agenda.

This case was first heard at the 5/21/09 USB hearing. At that time the Board granted a 30-day extension to the 6/18/09 USB hearing with the stipulation that the owner return with his plans and architect, and to remove debris from the property to the building inspector's satisfaction.

At the 6/18/09 USB hearing the Board granted a 60-day extension to the 8/20/09 USB hearing.

CHAIR SCHERER: Hello.

MR. JACKSON: I'm Al Jackson the owner.

CHAIR SCHERER: Mr. Jackson, what's the update?

MR. JACKSON: Okay, we have the architect. Right now, initially I was going to do this job myself as the owner, but my insurance company wanted me to have a contractor. So since then I have a contractor, and I have a letter here saying by tomorrow she shall have her credentials to the City of Fort Lauderdale.

[Mr. Jackson displayed the letter on the Elmo]

MS. HALE: Can you move that down [inaudible]

MR. JARRETT: Do you have the plans?

MR. JACKSON: I have a set here.

MR. JARRETT: Do you have a set of plans to show us?

MR. JACKSON: Yes.

MR. JARRETT: From the architect, signed and sealed?

MR. JACKSON: Yes. This is not the exact, this is a set, this is a set here.

[Mr. Jackson presented the Board with a copy of his plans to examine]

MR. JARRETT: Can we see them? It doesn't show a license on it.

MR. BARRANCO: Pass it down. Don't you usually put your [inaudible] here?

MR. JARRETT: Yes, you should, but they probably haven't been in business long enough to know that.

CHAIR SCHERER: Vanarc Construction Corp.?

MR. JACKSON: Yes.

CHAIR SCHERER: Okay.

MR. JARRETT: Complete set of plans.

CHAIR SCHERER: So -

MR. WEYMOUTH: What's the matter?

MR. JARRETT: There's probably something going to be found wrong with them [inaudible]

CHAIR SCHERER: That's this address? That address here?

MR. JARRETT: What's the address?

CHAIR SCHERER: 1800 Northwest 3rd Court.

MR. JARRETT: That's it.

MS. HALE: Yes.

CHAIR SCHERER: Okay. Looks like a nice set, signed and sealed. Signed and sealed.

MR. JARRETT: [inaudible] detail, the kind of detail [inaudible] got done.

CHAIR SCHERER: Okay, well if, so your insurance company wants you get a general contractor -

MR. JACKSON: Yes.

CHAIR SCHERER: - to do the work.

MR. JACKSON: Yes.

CHAIR SCHERER: Okay. Or, assist you with the work and -

MR. JACKSON: Yes.

CHAIR SCHERER: Okay. Before you can submit for a permit.

MR. JACKSON: Right. And she's supposed to have that

tomorrow so it'll be sometime next week we'll have the permit.

CHAIR SCHERER: Okay.

MR. JARRETT: A pretty good set of plans.

MR. PHILLIPS: How much time do you think, Mr. Jackson, you'll need to really formalize your contract with the GC?

MR. JACKSON: It should [inaudible] within the month.

MR. PHILLIPS: GC?

MR. JACKSON: Within the month for the GC.

MR. PHILLIPS: About a month?

MR. JACKSON: Yes, she supposed to have it, she supposed to have her credentials tomorrow. Therefore I can give the permit to the City. She can give, just saying by a month everything should be done.

MR. WEYMOUTH: You've already hired the contractor.

MR. JACKSON: Yes.

MR. WEYMOUTH: Okay. So you're anticipating submitting these plans to the Building Department next week.

MR. JACKSON: Right, yes.

CHAIR SCHERER: Okay, is there a -

MR. JARRETT: Gerry, do you have anything to say?

INSPECTOR SMILEN: The only thing I can just verify is that we haven't had any activity or anything. However, I'm glad to see that Mr. Jackson did bring some plans and it looks like he's on his way to trying to take care of these, this thing and make the property comply. So the City doesn't have

any objection at this time for an extension.

MR. JARRETT: I'd make a motion.

CHAIR SCHERER: Okay.

MR. JARRETT: I make a motion that we give the gentleman a 60-day extension in light of the fact that the plans do have to be submitted and there probably will be some plan review issues that'll have to be addressed and probably 60 days would take care of it.

CHAIR SCHERER: Okay, there's a motion, is there a second?

MS. HALE: I'll second.

CHAIR SCHERER: There's a motion and a second, any discussion? All those in favor say aye.

BOARD MEMBERS: Aye.

CHAIR SCHERER: Motion carries. You have 60 days.

MR. JACKSON: Thank you.

Board Discussion/ For the Good of the City

CHAIR SCHERER: Any other, no other business?

MS. PARIS: No, not unless you want to have any further discussion -

CHAIR SCHERER: No.

MS. PARIS: What does the front page say? It says communication to the City Commission will be addressed at the end of the hearing. Any other communication to the City

Commission?

CHAIR SCHERER: Doesn't sound like it.

MS. PARIS: We voted on the minutes.

CHAIR SCHERER: Voted on the minutes. Waiting on Crazy Gregg.

MS. PARIS: Waiting on -

MR. BARRANCO: Crazy Gregg.

MS. WALD: We can invite you again to the Code Enforcement Board workshop tomorrow morning. There's going to be refreshments.

MS. PARIS: Muffins, right? Muffins and coffee.

MR. JARRETT: Will they be baked by the City's Attorney's office?

MR. MCKELLIGETT: Mojitos in the afternoon.

MR. BARRANCO: Hey, we didn't thank -

MS. WALD: Unfortunately no.

MR. BARRANCO: We didn't thank the Building Official for being here today.

CHAIR SCHERER: Absolutely.

MR. BARRANCO: Thanks. Twice in a row, that's pretty cool.

MS. WALD: May become a permanent fixture. You guys, you are all invited. It really is only a workshop specifically dealing with Code Enforcement Board, but we will be touching on a lot of the same subjects that we deal with here and in

fact, some of the questions that you had for Chris last time, some of the generalized questions, they have the same ones, so that's [inaudible]

MS. HALE: You should have given us more notice.

MS. WALD: Well, we kind of set it up from the last meeting as picking the date and we didn't have another meeting here [inaudible] but you're more than welcome to come we're also going to be doing [inaudible]

MR. BARRANCO: Those are always good.

CHAIR SCHERER: Ginger, what -

MR. PHILLIPS: Tomorrow morning at 9:30?

MS. WALD: What time do we start? Nine o'clock. But it's going [inaudible]

MR. PHILLIPS: Here?

MS. WALD: Yes, right here.

CHAIR SCHERER: I'm kind of transitioning back into Crazy Gregg's thoughts right now for some reason, but what is the timeframe from the time that we order the demolition to the time it's actually completed, the work?

MS. WALD: Okay. I don't have an actual timeframe. You give the order of the 30 days. After that 30-day period of time, if the owner does not go ahead and in this case it's probably just removing the structure as opposed to getting a demolition permit and doing a demolition, this one's a little different.

MR. PHILLIPS: Should we wait, should we wait until he, they comes back?

MS. WALD: Yes, he's just asking a general question.

CHAIR SCHERER: I'm asking in general -

MR. BARRANCO: [inaudible] same exact question.

MS. WALD: As part of your order you say, after that period of time that if the owner does not demolish the structure then the City is ordered to demolish the structure. The City has to do the same thing.

The difference with the City is that we do have to retain a contractor to do that. The contractor then has to apply for the permit just as if the owner would, which requires making sure they get the certificate from FP&L and the capping of the sewer. After that period of time if there's money in the budget, wink, wink, wink -

MR. WEYMOUTH: We don't have to cut the sewer on this one.

MS. WALD: Oh, that's right we don't have to do that anymore. Wink, wink, wink, then the contractor will, we'll do another title search before that actually occurs to make sure there has not been any change in the title activity, provide the notice back out again, we're going out to demolish this structure and then it goes out.

So it's a minimum, minimum of 60 days as to time period. Really, realistically, depending on what happens, you're

really not looking at until about 120 days.

CHAIR SCHERER: I agree. And if in that timeframe - sorry, you're probably going to say - if in that timeframe a permit has been submitted -

MS. WALD: Yes.

CHAIR SCHERER: - to fix the problems and has been approved, that demolition order goes away?

MS. WALD: Well, that's a debate that I have had. It's a good question because it's a debate that I have had with the Building Department, not Mr. Augustin but on the other side of the Building Department, and my argument is it doesn't go away and it really should be brought back here to the Board because the Board has ordered that to be done, regardless if they've gone out and they've gotten the permit.

Now, would it take care of the underlying violations?
Yes.

CHAIR SCHERER: Right.

MS. WALD: But the problem is, you have made that order. So my advice is to bring the case back to this Board as a status and provide the information to the Board. And if the Board wants to have a new order the Board can do so.

CHAIR SCHERER: So, if we order a demolition, someone still proceeds and gets the permit, submits the permit, gets the actual permit, then it's upon basically the Building Official to bring it back before the Board say, the permit has

been applied for, we've issued the permit, we'd like you to reconsider the motion?

MS. WALD: I can't say building official because -

CHAIR SCHERER: Building Department not Building Official.

MS. WALD: I don't want to say that. As I said, my legal advice has been that you have an order; that order still stands, you can't ignore that order.

CHAIR SCHERER: Right.

MS. WALD: Therefore, if you don't want that order anymore because they have gone ahead and done that which would comply the violations - not the case because the case has been ordered to do that because we're talking about two different areas - that they should come back to the Board.

Now, I've been told that was not done in the past. Now I don't know about them unless they've come to me and they ask for the title search to be done or ask me a question. So, are they supposed to be demolished? Yes. Does that happen? No.

CHAIR SCHERER: No.

MR. BARRANCO: I've seen cases where two years later they go pull the permit to cut to the sanitary lines and water lines and the building's still sitting there vacant, derelict, you can walk in and out of the building. And they were before this Board two years ago.

MS. WALD: Yes, and then -

MR. BARRANCO: So, it happens,

MS. WALD: It does.

MR. BARRANCO: I've seen it, and the building still exists; I can tell you where it's at.

MS. WALD: Oh, I - yes, and I'm not going to - I'm not going to say it doesn't happen. And, in fact, a lot of it too is monetary. So if there's no money, my understanding again, and this would be a more for Ms. Bohlander, being the director of the department, as to whether there's money in the budget to actually go ahead for the City and accomplish it by demolishing the property they maybe not be able to do it within that fiscal year or not. That would be better questions for her.

One that you probably just read about in the paper that, at least a lot of you Board members, was the Antioch. Now that one, as you know, because I testified before the Board in regards to it, was in bankruptcy and with that a lot of things had happened. And then after your order it was appealed. And so it had to go through the Circuit Court and that took about a year.

In the meantime, there were two fires at that property and we did everything we could to try to get the judge to move along and finally did make the decision. Then we had to wait the 30 days for that appeal process period to run, and once that did, did another title search and then went ahead and

obtained the contractor to get that done. So that was finally done.

MR. PHILLIPS: Do you ever go, do you ever go before a bankruptcy judge to get permission?

MS. WALD: We can go in front of the bankruptcy judge to get permission. We do have, under, again, my legal opinion, as far as you can throw it, is that pursuant to federal case law you can, as life safety, health concerns, have an order and the City can carry out that order which would include demolition. I forget the name of the case but it was out of Pennsylvania or New Jersey and it was dealing with bankruptcy court.

My opinion is a little different from the City Attorney's opinion, and as to the City Attorney's opinion that the abundance of caution, he would rather that we do go in front of the bankruptcy court to have the order from the court to be able to do that.

MR. PHILLIPS: Bankruptcy's very, very fast.

MS. WALD: Yes.

MR. PHILLIPS: I mean, you could get a, a bankruptcy judge is not like [inaudible], they make decisions and that's it. I don't know why it would, everything that's going on why we wouldn't follow, when there's a chapter 7 or 11 and get in there and say, and get our petition, and the City get the petition and say hey, we want permission to demolish it.

And usually that's where the monetary issues are quickly wrangled out and if there's any equity worth saving, the bankruptcy judge can make a decision or allow us to demolish it and I think the City would be well protected from it.

MS. WALD: It can happen that way. What we've seen lately is not really bankruptcy is what we have seen the influx of as have you've all seen it is the foreclosure cases. And even with that in this arena it's not as big of a deal because we're going to provide notice to any interested party and that of course would include the bank, whether they have filed a lis pendens or not have proceeded with bankruptcy.

MR. PHILLIPS: Even in foreclosure cases, the federal, the state judges have inherent power to act on the res, the land, and I think if the City's attorney, City Attorney's office could get in, actively get involved in those cases, you could ask courts for permission -

MS. WALD: Well, but this Board -

MR. PHILLIPS: - and if the City's concerned about being protected -

MS. WALD: No.

MR. PHILLIPS: - it's always great to have a judge's seal on them.

MS. WALD: This Board is the one that, pursuant to ordinance, that would move forward for unsafe structures for demolition. And with this Board, you order it, we have the

authority to have it done. That's up to any bank if they want to go ahead and argue it, they don't have the standing to appeal it. So we just move forward.

So with the foreclosure arena it's not the same as to the bankruptcy where you'd have to go in front of the bankruptcy judge and we would have to intervene. And we really don't need to intervene in those foreclosure cases because we can just go ahead and move forward. And I don't know if they're ready behind me, because I hear noises so -

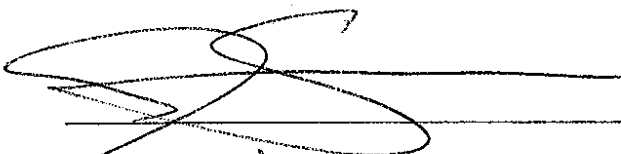
CHAIR SCHERER: Yes they are.

[At 3:50 the Board returned to the Crazy Gregg's case]

[Meeting concluded at 4:08 p.m.]

See Page 1

BOARD CLERK



JOHN SCHERER, CHAIRPERSON

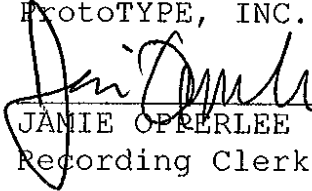
Minutes prepared by: J. Opperlee, Prototype Services

CERTIFICATION

I hereby certify that I have recorded and transcribed the City of Fort Lauderdale Unsafe Structures Board meeting held August 20, 2009, at 3:00 p.m., City Hall, 100 North Andrews Avenue, City Commission Meeting Room, Fort Lauderdale, Florida.


Dated at Ft. Lauderdale, Broward County, Florida, this 25 day of August, 2009.

ProtoTYPE, INC.


JAMIE OPPERLEE
Recording Clerk

SWORN TO and SUBSCRIBED before me by JAMIE OPPERLEE who is personally known to me and who signed the foregoing for the purposes therein expressed.

DATED this 25 day of August, 2009.


NOTARY PUBLIC
State of Florida at Large

Notarial Seal:



D.J. GROSSFELD
MY COMMISSION # DD 667809
EXPIRES: April 26, 2011
Bonded Thru Budget Notary Services