



MINUTES – August 03, 2023
Indian River County Environmental Control Hearing Board

Minutes of the Environmental Control Hearing Board held in the
Indian River County Administration Complex – Building A
Board of County Commission Chambers
1801 27th Street, Vero Beach FL at
12:30 pm on Thursday, August 03, 2023

5 voting members / 3 required for quorum

Call to Order

Kevin Rollin, Chair, called the August 03, 2023 meeting of the Indian River County Environmental Control Hearing Board to order at 12:50 pm.

Roll Call

Members Present:

Kevin M. Rollin, Chair
Patrick Walther, Vice-Chair
Norman Meyer

Members Absent:

Dr. Richard Baker
Anna Kirkland

Also Present:

Julianne Price, RS, Environmental Control Officer
Michael Maliszewski, Attorney to the Board
Susan Prado, Assistant County Attorney
Heather Waters, FDH Environmental Specialist

The Recording Secretary called the roll and advised the Board a quorum was present.

Approval of Minutes from the June 01, 2023 ECHB Meeting:

ON MOTION by Patrick Walther, SECONDED by Kevin Rollin, the members voted unanimously to approve the Minutes of the June 01, 2023 ECHB meeting as presented.

Additions or Deletions to the Agenda

None.

Swearing-In for those who will Testify

The recording secretary administered the testimonial oath to those present who wished to testify at the hearing.

Overview of Board Purpose and Procedures

Chair Kevin Rollin gave a brief overview of the Board's procedures and purpose of this civil proceeding.

HEARINGS

CASE NO: 593-22

RESPONDENT(S): I Am Ministries, Inc.

LOCATION: 11330 US Highway 1, Sebastian, FL 32958

Alleged Violation: No functioning sewage system for this property. They were in violation of §386.041(1)(b) of the Florida Statutes.

Presentation from Staff:

Environmental Control Officer Julianne Price confirmed that Indian River County Utilities clearance to connect is authorized. The Respondent representative, Anthony Zorbaugh called to confirm he complied; and, Ms. Price confirmed that he has complied based upon the approval received from Indian River County Utilities and he can now lawfully connect to the sanitary sewer system.

Response from Respondent:

Not required to be in attendance if in compliance.

Questions from the Board:

None.

Questions from Staff:

None.

ON MOTION by Kevin Rollin, SECONDED by Patrick Walther, the members voted unanimously to enter into an Order declaring that the Respondent is in complete compliance, purging any suspended penalties that might have previously been ordered, and declaring the case closed, relinquishing jurisdiction.

Discussion following the motion:

None.

CASE NO: 598-23

RESPONDENT(S): Jp&D Property Management, LLC

LOCATION: 765 18th Ave, Vero Beach, FL 32962

Alleged Violation: §386.041(1)(a), (b), (e), and (f) Florida Statutes The following conditions existing, permitted, maintained, kept, or caused by any individual, shall constitute prima facie evidence of maintaining a nuisance injurious to health: Untreated or improperly treated human waste, garbage, offal, dead animals, or dangerous waste materials from manufacturing processes harmful to human or animal life and air pollutants, gases, and noisome odors which are harmful to human or animal life. Improperly built or maintained septic tanks, water closets, or privies. The creation, maintenance, or causing of any condition capable of breeding flies, mosquitoes, or other arthropods capable of transmitting diseases, directly or indirectly to humans.

Presentation from Staff:

Environmental Control Officer Julianne Price reported that the property is compliance as of July 07, 2023. Ms. Price advised the board that Mr. Pizzo's cousin, John is present as the Respondent Representative. John stated that he is present because Mr. Pizzo is very ill in the state of New York and cannot travel.

Amber Chambers, Environmental Specialist 1 with the Florida Department of Health in Indian River County was present and summarized her visits since the last ECHB meeting held on June 06, 2023. Ms. Chambers has not received any additional pump-out receipts other than the one receipt for a pump-out on May 03, 2023 (prior to the last hearing). Ms. Chambers stated that based upon her observations, the property was in compliance on July 07, 2023.

Based upon her observations, Ms. Chambers stated for the record that from January 30, 2023 through July 07, 2023, the property was occupied by tenants. Ms. Chambers inspected the property on June 09, 2023, June 14, 2023, June 16, 2023, July 06, 2023, and July 07 to inspect the repair completed on the same day. Based upon Ms. Chambers observations, the property is in compliance.

Ms. Chambers observed occupants at the property on three separate dates while doing inspections, June 09, June 16, and July 06. Ms. Chambers stated that the occupants identified themselves as tenants of the property.

Deputy County Attorney Susan Prado noted for the record that there were attempts to communicate with the respondent through email to assist with compliance.

Response from Respondent:

The Respondent Representative, John Naclerio, stated that the Respondent, Mr. Pizzo is having health complications from an open-heart surgery from years ago. Mr. Naclerio has been helping Mr. Pizzo financially and paid for the septic repair. Mr. Naclerio claims he did not see tenants.

Comments from the Board:

The Board reviewed the fines assessed in the Order dated June 08, 2023. Chair Kevin Rollin commented that the Respondent not only failed to appear at the last hearing, but did not send any foreword about why he could not appear. Attorney Rollin confirmed with staff that there is nothing more to monitor on this property, it is in full compliance. Mr. Rollin also commented that by the Respondent's non-compliance, a penalty of \$500 per day was imposed as a coercive sanction; the Board gave him the remedy and he just didn't take it. The Respondent continued to have tenants in the subject property, making money on that property, disobeyed this order, and did not show up for either hearing. Mr. Rollin stated he would absolutely be inclined to impose an \$18,000 suspended penalty consistent with the Order on June 8th. The remaining fines are already imposed.

Discussion:

Susan Prado commented that there is a proposed Order at the end of the Agenda packet and would like guidance on the language. Staff inquired about the fines being imposed to the general fund and the time-frame. Kevin Rollin commented that the fines are due to the County's general fund immediately.

Norman Meyer brought to the board's attention that it is actually 35 days and not 36, so the fine is actually \$17,500 for the penalty of \$500 per day from June 02, 2023 through July 06, 2023.

The Board discussed revisions to the proposed Order.

ON MOTION by Kevin Rollin, SECONDED by Norman Meyer to uphold the amended order as follows:

The Respondent shall pay all of the penalties originally imposed in the June 08, 2023 Order as follows:

1. Respondent failed to abate the sanitary nuisance by June 01, 2023 for which a **penalty is hereby imposed, due and payable to Indian River County Board of County Commissioners immediately in the amount of \$7,000.00.**

2. Respondent failed to pump out the septic tank daily or alternatively ensure that the property remains vacant and unused until the nuisance has been abated for which a **penalty is hereby imposed, due and payable to Indian River County Board of County Commissioners immediately in the amount of \$6,500.00** for the period of 13 days, from May 19, 2023 through June 01, 2023 at \$500.00 per day;

3. Respondent failed to appear before the Board on June 1, 2023 at 12:30pm and provide evidence of compliance with this order for which a **penalty is hereby imposed, due and payable to Indian River County Board of County Commissioners immediately in the amount of \$500.00.**

4. Respondent failed to keep the property vacated until all violations were abated. The Subject Property remained occupied prior to the sanitary nuisance being abated, for which a **penalty is hereby imposed, due and payable to Indian River County Board of County Commissioners immediately in the amount of \$17,500.00** which is calculated at \$500 per day for the period of June 02, 2023 through July 06, 2023, for a total of thirty-five (35) days;

All payments shall be made via check and shall be made payable to Indian River Board of County Commissioners. The payments shall be sent to the Indian River County Health Department, Attention: Julianne Price within ten (10) days.

Respondent having come into compliance with the sanitary nuisance, case is closed. This Board relinquishes jurisdiction.

The motion passed unanimously.

BOARD MATTERS DISCUSSION

The Board discussed time frames to be placed on the liens. Kevin Rollin stated that it is not a good use of volunteer's time to collect money on behalf of the taxpayers. Currently it is the Board of County Commissioners that makes the decision to let a lien sit on a property or to foreclose on it. Kevin Rollin would not want the authority to negotiate fines. Susan Prado stated that the County has just begun foreclosing on Code liens and Utility liens.

ADJOURNMENT

Being no further business, Chair Kevin Rollin adjourned the meeting at 12:50 PM.

Respectfully submitted,

Maura Stokes

Recording Secretary