

INDIAN RIVER COUNTY
ENVIRONMENTAL CONTROL HEARING BOARD
VERO BEACH, FLORIDA

FLORIDA DEPARTMENT OF HEALTH)
IN INDIAN RIVER COUNTY AND INDIAN)
RIVER COUNTY ENVIRONMENTAL)
CONTROL OFFICER)

Petitioners
vs.

JP&D PROPERTY MANAGEMENT, LLC.

Respondent

CASE NO. 598-23

ORDER

This matter was heard before the Indian River County Environmental Control Hearing Board (hereinafter "Board") on August 3, 2023, pursuant to the Environmental Control Hearing Board Order dated June 8, 2023, that was issued by the Board. Jp&D Property Management, LLC (hereinafter "Respondent") was properly served with a Notice of the Hearing dated July 11, 2023. The Respondent was not present at the hearing, and the Board, having heard testimony and argument, and being duly advised in the premises, HEREBY makes the following findings of fact and conclusions of law:

A. Findings of Fact:

The Respondent owns property located at 765 18th Ave, Vero beach FL, 32962 (hereinafter "Subject Property").

The Respondent has created a sanitary nuisance pursuant to Florida Statutes Sections 386.041(1)(a), (b), (e), and (f).

The Respondent has allowed untreated human waste that is harmful to human or animal life pursuant to Section 386.041(1)(a), Florida Statutes by allowing the use of an unsound septic tank.

The Respondent is allowing the use of an improperly maintained septic tank which is leaking raw sewage onto the ground pursuant to Section 386.041(1)(b)

The Respondent is creating, maintaining or causing conditions capable of breeding flies, mosquitoes or other arthropods capable of transmitting diseases to humans directly or indirectly by failing to maintain a properly functioning septic tank pursuant to Section 386.041(1)(e), Florida Statutes.

The Respondent caused conditions determined to be a sanitary nuisance pursuant to Section 386.041(1)(f) as defined in Section 386.01 Florida Statutes by failing to maintain the septic system on the Subject Property leaving the health or life of an individual, or the health or lives of individuals, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused.

On January 30, 2023, a representative of the Plaintiff was called to the Subject Property to inspect a reported sanitary nuisance relating to the septic tank. The Plaintiff's representative found a septic system leaking sewage onto the ground's surface. A notice to correct was left with the tenant to provide to the property owner for the verified sanitary nuisance.

Petitioner issued a Notice of Violation on February 3, 2023.

Respondent failed to comply with the Notice of Violation and a hearing was held on April 6, 2023 at which time the Respondent was held in violation for creating a sanitary nuisance pursuant to Florida Statutes Section 386.041(1)(a), (b), (e), and (f), and the Board issued an order dated April 20, 2023.

Respondent hired a septic tank contractor to do an initial pump out, but has not performed any subsequent pump outs.

The Subject Property has remained occupied since May 19, 2023 by tenants without the septic system being repaired until July 7, 2023.

Respondent failed to comply with the Board's April 20, 2023 and June 8, 2023 orders until the sanitary nuisances was abated on or about July 7, 2023.

Respondent violated nearly every other provision of the April 20, 2023 and June 8, 2023 order by declining to perform daily pump outs in violation of the April 20th order and maintaining the residence occupied in violation of the June 8th order.

B. Conclusions of Law:


The Respondent created a sanitary nuisance pursuant to Sections 386.041(1)(a), (b), (e), and (f), Florida Statutes, and failed to comply with the Board's order dated April 20, 2023 until July 7, 2023 at which time the property was brought into compliance by abatement of the sanitary nuisance.

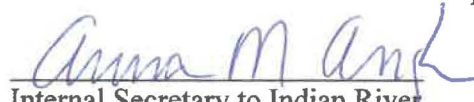
It is therefore ORDERED as follows:

1. Respondent shall pay all of the penalties imposed in the June 8, 2023 order totaling \$14,000 which shall be paid within 10 days from the date of this order via check made payable to Indian River County Board of County Commissioners. The payment shall be sent to the Indian River County Health Department, Attention: Julianne Price, 1900 27th St. Vero Beach, FL 32960.

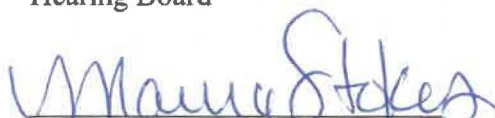
2. The Subject Property remained occupied prior to the sanitary nuisance being abated, and the \$500 per day suspended penalty with a start date of June 2, 2023, through July 6, 2023 for a total of 35 days and \$17,500 is hereby imposed and shall be paid within 10 days from the date of this order. Payment shall be made via check and shall be made payable to Indian River County Board of County Commissioners. The payment shall be sent to the Indian River County Health Department, Attention: Julianne Price, 1900 27th St. Vero Beach, FL 32960.
3. The Respondent having come into compliance and abating the sanitary nuisance, the case is closed and the Board hereby relinquishes jurisdiction.

DONE ORDERED this 8th day of August, 2023.


Kevin M. Rollin, Chairman


Internal Secretary to Indian River
County Environmental Control
Hearing Board

8/14/23
Date


Recording Secretary to Indian River
County Environmental Control
Hearing Board

8/14/2023
Date



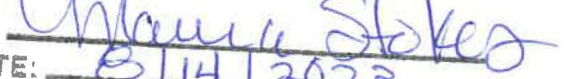
Copies furnished to:

Jennifer D. Peshke, Attorney for the Environmental Control Hearing Board
Susan Prado, Attorney for the Florida Department of Health in Indian River County staff
Jp&D Property Management, LLC., Respondent

STATE OF FLORIDA
INDIAN RIVER COUNTY

THIS IS TO CERTIFY THAT THIS IS
A TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN THIS OFFICE

Secretary
Environmental Control
Hearing Board

BY 
DATE: 8/14/2023