

BOARD OF HEALTH

MARCH 24, 2003 - 6:30 P.M - Agenda

View Minutes

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A meeting of the Board of Health was held on March 24, 2003 in the Health Department Conference Room, 1213 Purchase Street.

Present: Barbara A. Silva, R.N., B.S., Member

Victor F. Rebello, Jr., R.Ph., Member

Robert F. Davis, Director

Absent: Patricia L. Andrade, M.D., Chairperson

CALL TO ORDER:

At Dr. Andrade's request, Mr. Rebello chaired the meeting and called it to order at 6:55 PM.

MOTION TO ACCEPT MINUTES:

MOTION by Ms. Silva to waive the reading of, and accept the minutes of the regular Board of Health meeting held February 25, 2003. SECONDED: Mr. Rebello. UNANIMOUSLY APPROVED: MOTION CARRIED. MOTION by Ms. Silva to waive the reading of, and accept the minutes of the Board of Health's executive session held February 25, 2003. SECONDED: Mr. Rebello. UNANIMOUSLY APPROVED: MOTION CARRIED.

APPEARANCES/ACTION:

1. 142 Bullard Street, 1st Floor, William Sylvia, Owner, Attorney John Matthieu, Lori Kehoe, Tenant, Renee A. Stevens/Manuel E. Costa, Inspectors William Sylvia stated his name and address as 4 Middlewood Drive, Acushnet. Attorney John Matthieu stated his name and address as 168 Eighth Street and that he would be representing Mr. Sylvia. Mr. Costa described the fundamental co-mingling issue at hand involving three common-area lights on the tenant's first floor meter. After much disparity between landlord and tenant, the tenant was served an eviction notice and eventually called the Health Department and DPH with complaints. Although there had been a court agreement to correct the co-mingling situation, Mr. Sylvia and his attorney thought it best to ask to be heard by the Board. Attorney Matthieu explained that the tenant was a tenant-at-will, knew the lights were on her meter when she moved in four years ago, and had agreed to that arrangement

when she first accepted the apartment. In a court-mediated agreement with the owner, Ms. Kehoe agreed to waive any co-mingling claim she had in return for the owner giving her plenty of time to move out, and that all parties agreed she will vacate the premises by April 15, 2003. In spite of that agreement however, Ms. Kehoe has continued to complain to the Department, DPH and perhaps others. Mr. Sylvia's position was that with Ms. Kehoe's original agreement, he was not co-mingling, that this tenant was fully aware of what was on her meter, and that her multiple and ongoing complaints were motivated by retaliation for her eviction.

MOTION by Ms. Silva to waive the co-mingling charge, to allow Mr. Sylvia time to have the tenant vacate the apartment by April 15, then to fix the co-mingling sites by putting in a house meter and correct all other violations found subject to this Department's re-inspection prior to renting the apartment again. SECONDED: Mr. Rebello. UNANIMOUSLY APPROVED. MOTION CARRIED.

2. 18 Wing Street, 1st Floor, Francesca DaSilva, Owner, Laurie Viger, Tenant, Manuel E. Costa, Jr., Inspector

Mr. Costa stated that as of March 5, 2003 the owner had corrected 2 twenty-four hour violations completely, and 3 additional violations partially, but there were numerous others still uncorrected. Laurie Ann Viger stated her name and address as 18 Wing Street, 1st Floor and that she plans on moving. She also stated that she has been complaining to her landlord for a couple of years but because that landlord was a family member she waited until now to call the Health Department because she has no hot water. Francesca DaSilva stated her name and address as 16 Longfellow Street, Dorchester and that she and her husband, Carlos Arujyo, had just purchased the house in November with the intention to renovate it completely. At that time, the tenant promised Mr. Arujyo that she would move out after Thanksgiving, but has not, and further, has never paid any rent since nor given the owner access to the premises. Mr. Arujyo stated his name, that they actually bought the house from an aunt and that Ms. Viger was not even supposed to be the tenant. Rather, the tenant of record was really Mr. Wade Monteiro and that the former arrangement was family related and rather complicated. Mr. Costa and Ms. Stevens discussed possible condemnation of the property with the Board, but agreed it was at least on the borderline of condemnation for all the violations within it. The owner expressed her commitment to correcting all the violations as soon as the tenant vacated. The tenant advised the Board she has been looking for another apartment, but hasn't found one yet and has no idea when she will.

MOTION by Ms. Silva to sustain all twenty-four hour violations. SECONDED: Mr. Rebello. UNANIMOUSLY APPROVED. MOTION CARRIED.

3. 75 Peckham Street, 2nd Floor, East, Frank & Karen Knox, Owners, Linda Hernandez, Tenant, Renee A. Stevens, Inspector, and;

4. 75 Peckham Street, Frank & Karen Knox, Owners, JoAnn Lackie , Inspector Before testimony began, Mr. Davis advised the Board that Mr. and Mrs. Knox will not be

appearing tonight because Mrs. Knox had called him earlier in the day to say that she was "unaware" of this evening's meeting until getting a call from Ms. Baczek late today. On that basis, Mr. Davis allowed that they could be excused from tonight's hearing. Ms. Baczek confirmed that the Knox's notices had been sent to the wrong address. However, just prior to the start of tonight's meeting Inspector Stevens made it clear that Mrs. Knox was indeed aware of this meeting as of the week before when Ms. Stevens discussed it with Mrs. Knox, emphasizing her need to attend. Further, Ms. Stevens reported that Mrs. Knox assured her she would attend.

Ms. Stevens explained that she did an initial inspection on 2/5/03, and had cited the owners for 16 violations and the tenant for having an unsanitary apartment. Subsequently, she spoke with Mrs. Knox and Mrs. Knox stated that the violations had been corrected. However, Ms. Stevens reported that on reinspection, only 7 of the 16 violations had been corrected while the rest remained uncorrected. Further, Ms. Stevens also reported that Mr. Knox stated he had no intention of doing any more work on the remaining violations. Describing the apartment as unacceptable, with several violations remaining, Ms. Stevens recommended putting the owners in court.

Speaking for environmental inspector Ms. Joann Lackie, who was out sick, Chief Sanitarian Mr. Barry Sylvia reported that Ms. Lackie had also spoken with the owners. Although the Knox's had exterminated for roaches, Inspector Lackie had told them they also needed to exterminate for mice and show her a receipt from the exterminator. Mr. Sylvia had spoken with Ms. Lackie by telephone earlier that day and reported that she hasn't heard anything from the Knox's except their declaration that they were not going to exterminate for mice as requested, but rather were going to request a hearing before the Board instead. Mr. Davis suggested the day's earlier deception and the owners' reported intentions with respect to the outstanding violations cited might be sufficient for the Board to sustain those violations and direct Ms. Stevens to take them to court.

MOTION by Ms. Silva that the violations be sustained and that Ms. Stevens should proceed to take the subject owners to court. SECONDED: Mr. Rebello.
UNANIMOUSLY APPROVED. MOTION CARRIED.

5. 153 Acushnet Avenue, Edward F. Almeida, Owner, Attorney Joseph McIntyre, JoAnn Lackie, Inspector

Speaking again for Ms. Lackie, Mr. Sylvia reported that an inspection of the property had been conducted and violations found in regard to the pigeons and the debris in the backyard of the subject property. Also that Ms. Lackie had a conversation with the owner's attorney, Joseph McIntyre to discover that the Almeidas were in court about the contractor who had done some repairs for the owner and left the debris. Attorney McIntyre stated his name and address as 115 Orchard Street and that he represented the owners, Mr. and Mrs. Edward Almeida. Attorney McIntyre said that the Almeidas had been in court about the contractor who did some repairs, left the debris and did not finish the work, but took \$32,000.00 from the Almeidas and then declared bankruptcy. The Almeidas have prevailed on arbitration in court and were waiting for a portion of the

money lost from the Commonwealth's contractor's guarantee fund. The Almeidas have also secured the services of a Mr. Horton to clean up and stack the debris and take care of the pigeon problem cited, with the work to start in about five to ten days. Mr. McIntyre explained that the only reason the Almeidas asked for a hearing today was to ask for a little time, at least 30 to 60 days, first to learn the status of the guarantee fund payment and then to take care of the other violations. Mr. Sylvia advised that the Almeidas should remove the debris from the property, store and stack neatly the useful items in the yard up off the ground, and take whatever measures possible to prevent pigeons from roosting on the home.

MOTION by Mr. Rebello to clean the property up and take care of the pigeon problem within fourteen days and also to grant the Almeidas sixty days to secure funding and bring the rest of the violations into compliance. SECONDED: Ms. Silva.
UNANIMOUSLY APPROVED. MOTION CARRIED.

OLD BUSINESS:

1. & 2. Mr. Davis reported that City Solicitor John Markey has asked to make a presentation to the Board next month on both the generalized permit policy and revisions to the tobacco control regulations. Mr. Davis also reported that Attorney Markey has resolved the Point Gas situation as the Board had requested at the previous meeting. The Department will issue Point Gas a 2003 Tobacco Sales Permit with the 2003 permit fee and conditions stipulated in the Board's agreement with Point Gas. 3.

The Pope's Island agreement noted in the previous meeting between the Board and D.W. White, needed to protect the City in the process of granting a sewer system variance, was reviewed by the city solicitor's office and presented to D.W. White last week. On advice of counsel, the agreement requires the applicant to establish an escrow account of \$19,600 in order to proceed, the same amount estimated for the owner's connection to the New Bedford municipal sewer system this spring. When signed and returned, Mr. Davis will hand-carry the agreement to the Members for their signatures.

NEW BUSINESS:

1. A small but clear error has been reported to Mr. Davis on the Fee Schedule previously adopted by the Board in April 2002. By statute and regulation, the state has set a limit on the amount a municipality can charge for copies, that limit being twenty cents. The current Fee Schedule that sets the rate for copies at twenty-five cents must be changed. MOTION by Ms. Silva to change the fee for copies from twenty-five to twenty cents. SECONDED: Mr. Rebello. UNANIMOUSLY APPROVED. MOTION CARRIED.

2. The state-funded Tobacco Control Program, and Marianne DeSouza's office in particular, will be moved into empty space in the Department's Nursing Division section this week. The Program has suffered several funding cuts this past year and even Ms. DeSouza's time has been reduced to less than 1 FTE. To the extent Programs like New

Bedford's can significantly cut expenses like rent, the money saved can be used to extend the life of the Program into the next funding cycle.

3. With the loss of two state funded nursing programs, the Department's Nursing Division will be reshaped in the coming year to maximize the nursing expertise at hand. Nursing Division Supervisor Ann Cottrill is currently preparing a proposal for Mr. Davis to present to the Board on how best to serve the City with that expertise.

NEXT SCHEDULED MEETING:

Pending Dr. Andrade's agreement, next month's meeting was tentatively set for 6:30 PM on Wednesday, April 23, 2003, with Tuesday April 22, 2003 as the alternate date.

MOTION TO ADJOURN: MOTION to adjourn by Ms. Silva. SECONDED: Mr. Rebello. UNANIMOUSLY APPROVED. MOTION CARRIED.

MEETING ADJOURNED: 8:27 PM.

A true record attest
