



## BOARD OF HEALTH MEETING

March 8, 2016 – 6:30 PM  
Rockport Town Hall Annex

**Present:** Board members Dr. Sydney Wedmore - Chair, Dr. Russell Sandfield, Dr. Sydney Jimenez, Health Agent Leslie Whelan, Assistant Town Administrator Mitchell Vieira, Attorney Jeff Blake of Kopelman and Paige, and Administrative Assistant Marianne Peters.

**Absent:** Board Member Dr. Bruce Cohen.

6:30 p.m. Executive Session Pursuant to G.L. C30A 21(a)(3) to Discuss Litigation in the Matter of Rockport Board of Health v. Glick/Rockport Commons.

Dr. Wedmore called the public meeting to order at 7:09 p.m. upon ending Executive Session.

7:09 PM: Hearing: Sandy Bay Estates – 606 Sandy Bay Terrace & Building 6 Common Area

Attorney Kiely requested the hearing to discuss the 1/25/16 Board of Health Enforcement Order and to review the property owners' progress. Stated that the Enforcement Orders sometimes contain incorrect dates or that the violations listed are invalid, overly broad, and do not cite the regulation(s) violated. Attorney Kiely stated that if the Health Agent does not observe a violation first-hand, they should not be cited; he noted an example of a reported sewage backup.

Asked about the objection(s) to the 1/25/16 Enforcement Order, Attorney Kiely referred to his letter objecting to the initial order, that incorrect dates were listed and that they were subsequently amended' and that the 1/25/16 Order stated that things had been repaired. Health Agent explained said her initial order inadvertently contained 2-3 errors in dates and that the information was subsequently relayed and provided to Attorney Kiely via email.

Dr. Wedmore asked the Health Agent if she had witnessed first-hand evidence of a sewage backup; she replied that she had not but that several complaints about sewage backup had been received and that it was not the first time that sewage back-up complaints had been made. She stated that she did observe wet spots upon inspection but was uncertain as to the source; property owners were ordered to have the pipes inspected because likely something mechanical or physical that is damaged that, if fixed, can prevent future problems. She stated that to date, the property owners have refused to do what was ordered...to inspect the pipes, provide evidence of an inspection, or to clean the pipes; none of which have been done. *(please refer to minutes of 4/5/16 meeting on this matter).*

The Board discussed the several outstanding egregious health code violations in some units that were identified nine months ago (since June 13, 2015). These include tested/confirmed water at scalding 159-160 degrees, leaks, backups, mold, and others). It was discussed that the property owners/manager could hire outside companies to remediate these health code violations but have not. Dr. Sandfield stated the need for the matter to be finalized and that with outside

assistance/contractors, the property owners could have these violations remediated in two weeks perhaps; Dr. Jimenez added that as a property owner/manager, it's understood that upkeep is a must and noted the property owner's obvious lack of prioritization in repairing the property.

Dr. Sandfield asked how long the issues with Sandy Bay Estates have been going on; Attorney Keiley responded that as far as he knows, it's been a number of years. He stated that some things have been taken care of, others not, but that the number of complaints have dropped significantly. Dr. Wedmore noted that while a number of repairs have been made, some of the outstanding issues can be very harming to a person's health including the hot scalding water; as well, the outstanding issues could be taken care of by the hiring of outside contractors to bring them to finalization. Drs. Sandfield and Jimenez concurred and discussed that the matter cannot continue without resolution.

Dr. Wedmore asked Attorney Kiely if the owners have other properties and what their corporate policy for rent collection is and what happens if a tenant misses a rent payment. Chris Spaulding addressed the board and stated that 'you get a 14-day quit notice' and told the Board that Paragon cashed her rent check on February 10<sup>th</sup> and issued an eviction notice on February 12<sup>th</sup> and that they told her they (Paragon) had no idea what happened to her check and instructed her to provide a copy of the check. Dr. Wedmore pointed out that if Paragon's corporate policy for late payment includes eviction within 14 days, then Paragon's payments to the Town are significantly overdue; with no improvement being made to the property, no good reason for it, and that it must stop. Dr. Wedmore instructed Attorney Blake to continue with the court case with all due speed.

Occupants Michael and Chris Spaulding voiced their concerns about non-locking security doors (one actually taken off the hinges), trash in the hallways (they often have to pick it up/dispose of) and stated they received an eviction notice for a late rent check that wasn't late. Occupant stated that the unlocked doors pose a threat to them and their 11-year-old child; often there are needles found in the hallways. Stated that they pay their rent in full every month, have never missed a payment, and have asked management to address the problems but they do not. Chris stated that they moved to Sandy Bay Estates for the pool and that the management no longer opens the pool. She stressed the need for front and back locking doors. Occupant addressed Attorney Kiely on the issue but got no response. Attorney Kiely announced he would be leaving the meeting; before doing so, Alan Chesney (representing his sister Madeline/Unit #606) addressed the Board and Attorney Kiely to ask which mold remediation company was used, which units were remediated, and for a copy of the report to identify the types/levels of mold found as he suspects the ailing health of his sister (an occupant for 20 years) may be due to mold exposure. Stated that there was so much mold in her unit that the bathroom had to be gutted and that she had to move out temporarily. Mr. Chesney stated that on July 21, 2015 he left Paragon Properties a detailed message about possible mold due to a water leak and the buckling of the walls in the bathroom of the unit. Stated that some repairs were made but is concerned about mold. Attorney Kiely noted that if there is more work to be done in Unit #606, perhaps the Health Agent could keep an eye on the unit for mold. Mr. Chesney inquired as to the schedule of outstanding work to be done and would like advance notification so that he could prepare his sister. He stated that he has paid over \$2,000 to move his sister out of the unit while the work was being done and asked Attorney Kiely for his contact information so that he could forward the invoices for repayment of the costs associated with having to move her out during repairs.

(Attorney Kiely left the meeting).

The Board summarized that the outstanding violations and repairs can be made if the property owners hired outside painters, plumbers, etc. Due to the owner's lack of prioritization or resolution on the health code violations, the Board discussed that there no other option than to pursue the matter in the courts.

Attorney Blake stated that Attorney Kiely requested the hearing on the 1/25/16 Enforcement Order and that it did not appear that Attorney Kiely presented evidence of remediation with respect to the violations. Dr. Wedmore discussed Attorney Kiely's objections and appeals about the Enforcement Order and noted that there are several outstanding and egregious health code violations that were identified nine months ago (since June 13, 2015) and determined that Attorney Kiely's objections are without merit and - absent any progress on the 1/25/16 Enforcement Order in the past month on the property owners' part - it is the Board's opinion that the matter continue through the courts and asked if the other Board members agree to keep the case in the courts; Dr. Sandfield and Dr. Jimenez concurred. (Attorney Blake left the meeting after the decision was made).

Mr. Chesney commended the Board on their continued work on the Sandy Bay Estates problems.

Next Meeting Date: March 22, 2016 (one agenda item; no Agenda Prep Meeting)

8:52 p.m. Meeting Adjourned.