

## MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS

### MINUTES

**DATE:** Regular Meeting Thursday May 26, 2011 – 7:30 p.m.  
FREEHOLDER PUBLIC MEETING ROOM

Chairman Bruce Alatary called the meeting to order and read the Open Public Meeting Statement.

Chairman Bruce Alatary requested a roll call.

**PRESENT:** Chairman Bruce Alatary, Edward Bucceri, Jeffrey Betz, (6)  
Kimberly Hurley, Vice Chairman Ted Maglione, Craig Villa

**ABSENT:** Harold Endean, Raymond Stromberg, Michael Spillane (3)

**ALSO PRESENT:**

W. Randall Bush, Assistant County Counsel  
Evelyn Tierney, Board Secretary

**APPROVAL OF MINUTES:**

Minutes of the special meeting held April 12, 2011 were previously distributed. Craig Villa moved the approval of the minutes as submitted. Edward Bucceri seconded the motion. The Board approved the minutes as submitted by the following roll call vote:

**YES:** Chairman Bruce Alatary, Edward Bucceri, Vice Chairman Ted Maglione, Craig Villa (4)

**NO:** None (0)

**NOT VOTING:** Jeffrey Betz, Kimberly Hurley (2)

**CASE HEARD**

- Partridge Run Apartments Inc. (Block 767, Lot 16 Bldg F, G & R, 130 New Road) v. Township of Parsippany-Troy Hills MC#2011-5.

Appearances:

Susan Rubright, Esq., *law office of Brach & Eichler LLC*, on behalf of Partridge Run Apartments, Inc.  
Justin A. Marchetta, Esq., *law office of Inglesino, Pearlman, Wyciskala & Taylor, LLC*, on behalf of the Township of Parsippany-Troy Hills

Counsel Bush stated that he is representing the Board at tonight's meeting, and wanted to make the parties aware that Counsel Marchetta's colleague, John Inglesino, Esq., from the same law office also serves as special counsel for Morris County. Counsel Bush does not believe that this constitutes a

conflict and asked for the Ms. Rubright's and Mr. Marchetta's opinions. Counsels Rubright and Marchetta indicated that they have no issues with Counsel Bush advising the Board.

Chairman Alatary stated for the record the details of the appeal, proceeding of the hearing, and the timeliness of the filing of the appeal within the required fifteen day period as per NJAC5:23A. The municipality does not have an objection for the appeal to be heard due to circumstances of the receipt of the Notices by the applicant Partridge Run Apartments Inc.

Counsel Rubright stipulated to the fact that five sets of stairs have code compliance issues with the height of the riser (One set of stairs services four apartments).

Chairman Alatary stated that the "Application for a Variation" denials dated 5/18/2011 will be heard first; pending that outcome the Penalty Notices will be addressed or will be moot.

The following witnesses were sworn in by Counsel Bush:

Angela Crawford, Comptroller/Manager, Partridge Run Apartments, Inc.

Lenard Piwnick, President of Partridge Run Apartments, Inc.

Ronald Ferrari, Building Subcode Official, Township of Parsippany-Tory Hills

Edward Corcoran, Construction Official, Township of Parsippany-Tory Hills

Mr. Ferrari's testimony followed and documents were offered as exhibits and marked as follows:

- D-1 = 1 page "Summary of riser height differences at Partridge Run", 4 pages total (one page entitled R-2 Use Group page summary, two pages of code sections, and a copy of a method of measurement picture).

Cross examination followed. Counsel Rubright objected to some of the statements made by Mr. Ferrari regarding flooding since that is not within the context of the UCC and his expertise. Counsel Rubright also objected to the submission of the exhibit. It was her understating that the issue of the Violation notices and Variation was the first riser on the stairways from the sidewalk up. Based on statements made by the witness, Counsel Rubright withdrew her previous stipulation. Counsel Rubright stated that she was not comfortable in proceeding without an expert to testify if the appeal is for all stairways riser height differences. She expressed that she was being unfairly prejudiced and asked that the case be dismissed or stayed to another hearing. Counsel Marchetta objected and stated that the documents submitted are provided to assist in understating Mr. Ferrari's testimony. The Notice of Violations issued stated the following under paragraph 3. "The steps in question are front steps etc." clearly not only referring to a first riser from the sidewalk, therefore Counsel Rubright should have been prepared. Extensive discussion followed. The objections were noted.

The Board carried the case to be heard at the next meeting scheduled for June 23, 2011 and the parties were asked to share all documents to be presented to the Board prior to the June meeting, as well as to prepare a joint stipulation to the Board in order to have a clear picture on what is outstanding to be heard at the next meeting.

The parties were excused and the Chairman continued with the items on the Agenda.

**CASES STAYED/POSTPONED** (*Postponement requests/consent and case correspondence was made part of the file*)

William Schaefer (Block 4401 Lot 42 – Denial of Permit 2/25/2010, Block 2604, Lot 19 Notice of Unsafe Structure 2/17/2010 = worksite: 41 Turnpike) v. Township of Pequannock	MC#2010-7 <i>(stayed open ended with status updates received on dated 7/6/2010, 8/6/2010, 9/14/2010, 10/15/2010, 11/12/2010, 1/13/2011, 2/28/2011, 4/6/2011 - and made part of the file)</i>
Scheller Properties LLC (Block 20, Lot 50) v. Township of Washington	MC#2010-21 <i>(stayed open ended 6/23/2010 pending litigation, status update received 10/29/2010)</i>
Tucker Kelley (Block 30503, Lot 12) v. Twp. of Rockaway	MC#2006-34/1 <i>(stayed as per counsel requests, date to be determined by all counsels)</i>
Giovanni Granata (Block 4602, Lot 2 worksite: 11 Newark Pompton Turnpike) v. Township of Pequannock	MC#2010-36 <i>(stayed pending DEP waiver decision – status updates to be received)</i>
Patrick Golden (Block 13402 Lot 1.04 worksite: 673 Long Hill Rd.) v. Township of Long Hill	MC#2011-7 <i>(6/23/2011 HD 3<sup>rd</sup> mtg.)</i>

**CASES WITHDRAWN** (*“Withdrawal Confirmation” letters faxed & mailed to all parties and made part of the case files*)

Mr. Bove, Jr. (Block 40.08, Lot 23) v. Twp. of East Hanover	MC#2005-37
Mr. & Mrs. Palacios (Block 8200, Lot 31) v. Township of Mount Olive	MC#2011-8 Consideration of refund of the appeal fee ( <i>Case filed 3/24/2011, withdrawn 5/17/2011</i> ). Chairman Bruce Alatary made a motion to deny the request for the refund of the appeal fee. The motion was seconded by Vice Chairman Ted Maglione. The motion to deny the refund of the appeal fee was approved by the following roll call vote:

**YES:** Chairman Bruce Alatary, Edward Bucceri, Jeffrey Betz, Kimberly Hurley, (6)  
Vice Chairman Ted Maglione, Craig Villa

**NO:** None (0)

**CORRESPONDENCE**

- Budget Balance as of 5/25/2011 = \$447.70

**OLD BUSINESS** --- NONE---

**NEW BUSINESS**

- Vice Chairman Ted Maglione made a motion to recite the Pledge of Allegiance before the start of the future hearings. Kimberly Hurley seconded the motion. The motion to recite the Pledge of Allegiance at the beginning of the MC CBA hearing was approved by the following roll call vote:

**YES:** Edward Bucceri, Jeffrey Betz, Kimberly Hurley, Vice Chairman Ted Maglione, (5)  
Craig Villa

**NO:** Chairman Bruce Alatary (1)

**NEXT MEETINGS:** Thursday, June 23, 2011

**ADJOURN:** On motion duly made and seconded, the meeting was adjourned at 9:00 p.m.

---

Evelyn Tierney, Board Secretary