



Item No. 17a

# AGENDA ITEM REQUEST FORM

**Development Services**

**Jeff Bowman**

Department Submitting Request

Zoning/Code Supervisor

**REGULAR**  
**COMMISSION MTG**  
**Meeting Dates - 7:00 PM**

**DEADLINE TO Town Clerk**

**ROUNDTABLE**  
**MEETING**  
**Meeting Dates - 7:00 PM**

**DEADLINE TO Town Clerk**

July 26, 2011

July 15 (5:00 pm)

July 12, 2011

July 1 (5:00 pm)

\*Subject to Change

Presentation

Reports

Consent

Ordinance

Resolution

Quasi Judicial

Old Business

**New Business**

**FY2011 DESIGNATED HIGH PRIORITY ITEM**

**SUBJECT TITLE: Request for a 118 Day Extension of the 18 Month Construction Period for 240 Imperial Lane to November 31, 2011**

**EXPLANATION:**

The first building permit (No. 09-01501) for the construction of a single family home at 240 Imperial Lane was issued on February 04, 2010. Pursuant to Section 6-12 of the Town Code, the owner has an 18 month period to complete construction, which ends on August 4, 2011. Prior to the issuance of the first building permit, a demolition permit was issued on July 10, 2008, which expired four times prior to it being closed out on February 2, 2011. The Permit History is listed below.

We received the attached application dated April 20, 2011 (**Exhibit 1**) from the property owner for an extension of time to complete construction of this single-family home. The application was not processed at that time because the amount of additional time requested was not included. The applicant's General Contractor recently submitted a Projected Schedule (dated July 5, 2011) outlining the completion of work by November 30, 2011, which is 118 additional days (3 months and 26 days) beyond the 18 month period allowed under the Code. No statutory permit extension is applicable to the applicant's request.

Section 6-12 of the Town Code (**Exhibit 2**) requires all new structures or additions to be completed within 18 months of the date of the issuance of the first building permit; however, it provides criteria by which the Town may grant an extension of time: "When there are **extenuating circumstances which prohibit completion of the construction**, the property owner may file with the Town Clerk a request for extension of time." The Code requires the request for an extension of time be evaluated by the Town Commission at a public meeting after notice is given to all property owners within 400 feet of the property. The notice mailing expense of \$104.32 was paid by the applicant.

Please note that the building permits process is separate and apart from the Town's Code requirement to complete construction within 18 months.

At the end of the 18 month construction period, the project may have valid building permits in place and may continue to build without violating the South Florida Building Code.



The property owner's application identified the following reasons for the delay in completing construction:

1. Weather delays
2. Building material not readily available
3. Contracting issues
4. Documentation errors
5. Error on original survey that were different from FEMA records

### **Permit History**

#### **Demolition Permit #08-01633**

1. 07-10-2008 - Demolition permit issued.  
02-22-2011 - Permit finalized and closed out.

NOTE: Permit expired four (4) times before it was finalized and closed out. (Dates: 2-7-2009, 9-16-2009, 4-20-2010, 11-19-2010). Renewal fees were paid and permit re-activated each time.

#### **Building Permit for Renovations #09-01501**

2. 08-21-2009 - Building permit application submitted.  
02-04-2010 - Building permit issued.

NOTE: Permit expired two (2) times (Dates: 12-01-2010, 2-25-2011). Renewal fee was paid and permit reactivated each time.

Since May 2009, we have initiated 32 code enforcement cases on this property (**Exhibit 3**), of which one is active. The violations were for working without permits (the permits had expired), and the Special Magistrate ordered the property owner to obtain permits and complete the work by January 15, 2011.

The property owner did not comply by the ordered deadline, so a daily fine of \$150 has been imposed which began to run on January 15, 2011. The fines, as of July 26, 2011, total \$28,800 (192 days @ \$150 dollars a day). The final order imposing fines has been recorded in the public records as a lien on the property. The property must receive a certificate of occupancy (CO) to comply with the Special Magistrate's order, at which point fines will cease. The approval of an extension will not cure the property owner's violation or stop the fines from accruing. However, it may support an application for relief from code enforcement fines or liens.

If construction of this property is not completed within the 18 month period or by the end of any extension period, the Town may prosecute the violation as a nuisance in circuit court or as a code violation through the special magistrate. There are staff and legal costs involved in pursuing a nuisance action in circuit court and the court only provides injunctive relief, i.e., an order to cure the nuisance by completing the project within a specified deadline. A cost/benefit analysis of pursuing a nuisance action versus continuing with the current fines, which continue to accrue on a daily basis, suggests that there is only a marginal benefit. Any court remedies imposed may be difficult to enforce against the owner, and may not provide any greater incentive than the daily Code fines.



In the event the extension is not granted by the Town, the running fines will continue to accrue at \$150 per day indefinitely, until the work on the property is finished and the permit is closed by a passing final inspection. If the property owner meets his projected completion date of November 30, the property will be in violation an additional 127 days (an additional fine of \$19,050) for a total fine of \$47,850. Additionally, the Town may, after the expiration of the 18 month period, initiate an additional code enforcement action for the failure to complete construction within the required period of time.

Given the available code enforcement options, the Town Attorney recommends maintaining the current enforcement action and pursuing additional code enforcement action, if necessary, rather than pursuing a separate nuisance action.

The attached **Exhibit 4** lists the three properties that have applied for extensions of the 18 month construction period in the last two years.

**Exhibit 5** is a picture of property on July 7, 2011.

**RECOMMENDATION:**

We recommend the applicant's request for an extension to November 30, 2011 not be approved, as the applicant has failed to show that there were extenuating circumstances that prohibited the completion of the project within the 18 month construction period.

The Code fine of \$150 per day will continue to run and provide incentive for the prompt completion of this project.

- EXHIBITS:**
- Exhibit 1 – Applicants Construction Time Extension Request / Projected Time for Completion.
  - Exhibit 2 – Section 6-12 of the Town Code
  - Exhibit 3 - Code Issues at 240 Imperial Lane
  - Exhibit 4 – List of Extension Applications
  - Exhibit 3 – Picture of property on July 7, 2011

Reviewed by Town Attorney  
 Yes     No

Town Manager Initials   CJA



Town of Lauderdale By The Sea  
 Development Services  
 4501 Ocean Dr.  
 Lauderdale By The Sea, FL 33308  
 Office 954-776-3611  
 Fax 954-776-3431

Exhibit 1

**Construction Time Extension Request**

Applicants Name: Murat Kiroglu Date: April 20-2011  
 Applicants Address: 1500 Bay Road # 1305 Zip Code: 33139

Applicants Phone Number: 305-360-5617 Alternate #: 954-224-6073

Project Information

Site Address(s): 240 Imperial Lane  
 Legal Description: Lauderdale Surf... Folio #: \_\_\_\_\_  
 Zoning District of Site: \_\_\_\_\_  
 Description of Project: Reinforce first floor add second floor  
 Project Name: Kiroglu  
 Date of Development Order (if applicable): \_\_\_\_\_

Permit Information

Permit Number(s): 09-01501  
 Date Original Permit was Issues: Feb 4 - 2010  
 Projected Completion Date: \_\_\_\_\_

Note: A fee will be charged for the Public Notice mailing based on properties within a 400 foot radius of the construction site. Reference Town Code Chapter 6-12 (c). Once the fee is determined from the mailing list and paid by the applicant, the application process will proceed.

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Mandatory: Please provide a letter detailing the reasons for the construction time extension request.

Applicants Signature: [Signature] Date: \_\_\_\_\_

For Office Use Only:  
 Town Commission Approval Date: \_\_\_\_\_

April 19, 2011

To Whom It May Concern:

This is just a letter briefly stating reasons for the extension as requested. We have had weather delays, some materials were not readily available, we have had a couple sub contractor issues needed correcting, as well as documentation errors - needed corrected - not within our immediate corrective capabilities - ex just this morning an error on original survey differed from FEMA records - - We are trying to correct - - but it all seems to take much more time than you would think - - but we are still stuck with having to accomplish these time delays - - and hasten them as much as we can



07-05-11 P03:19 R

# PROJECTS R US

1618 NE 33 street  
Oakland Park Fl. 33334  
Phone:954 224 6073



**Estimate Schedule time. Subject to change.**

**Project schedule** 240 Imperial Lane

*located by the sea  
# 09-01561*

**July 11-16**

**Roof trusses installation  
Plywood Roof**

**July 18-23**

**Dry in roof  
Wire exterior plywood  
Exterior Stucco**

**July 25-29**

**Roof installation**

**August 1-5**

**Window Installation  
Finish Stucco  
Contract engineer for pool**

**August 8-12**

**Exterior work  
Interior work framing preparation for drywall  
Pool area preparation**

**August 11-19**

**Exterior trim installation  
Electrical and plumbing rough installation**

**August 22-27**

**Exterior paint  
Interior drywall installation  
Preparation for finishes**

**September 5-9**

**Start pool work  
flooring marble installation**

**September 12-30**

**Exterior fountain and trims  
working interior tiles  
A/C unit installation**

Disclaimer goes here

# Exhibit 1

## October 3-21

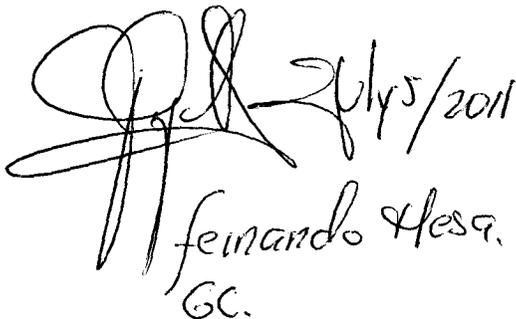
Finish pool construction  
Pool equipment installation  
wood trims and crown molding  
kitchen cabinet installation  
interior doors and windows installation  
rod iron installation

## October 24- November 11

finish and polish marble floors  
Pool deck construction  
Interior completion  
Countertop installation  
Finish A/C Plumbing and fixture installation

## November 11-30

Landscaping sprinkling  
Landscaping installation  
Rome fence  
Clean out and punch out details  
appliance installation  
carpet installation

 2/15/2011  
fernando mesa  
GC.

**PROJECTS R US**

1618 NE 33 street  
Oakland Park Fl. 33334  
Phone:954 224 6073



**FACSIMILE TRANSMITTAL**

<b>To: Jeff building department Lauderdale By the Sea</b>	<b>Fax #:954 776 34 31</b>
<b>From: Fernando Mesa</b>	<b>Fax #: 561 869 5725</b>
<b>Pages: 1</b>	<b>Date: July 7, 2011</b>
<b>Re: 240 Imperial lane Lauderdale by the Sea</b>	
<b>Permit #09-01501</b>	
<b><i>Dates that the subcontracts were signed</i></b>	
<b>1-Shell Contractor Castle Constructions Inc. 05/26/2010</b>	
<b>2-Trusses Florida Quality Trusses 06/17/09</b>	
<b>3=Plumbing sub contractor Metzner LCC 01/10/11</b>	
<b>4-A/C sub contractor RR air Conditioning 03/24/11</b>	
<b>5-Electric Contractor MJK Electric Inc. 03/14/11</b>	
<b>6-Impact windows and doors East Cost Windows 07/09/11</b>	
<b>7-Frame and Drywall installation and Interior Finishes</b>	
<b>Alves General Services Selected but not contract signed</b>	
 <b>Prepared by Fernando Mesa</b> <b>CGC 1514288</b>	
	

# Exhibit 1

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Murat Kiroglu  
240 Imperial Lane  
Fort Lauderdale, FL 33308

May 18, 2011

To:  
Town of Lauderdale-By-The-Sea  
Case No.10-KW-00268  
Code Officer Kimberly Williams

Dear Sirs,

In reference to the meeting of my Project Manger and GC. Fernando Mesa with Kim Williams, the City Official on April 27, 2011. They got into some conclusions.

Mr. Mesa and Mrs. Williams have agreed that accordingly to our dates, our permits were issued in January 2010. Such permits have a period of 18 months for completion of construction, which would end on July 24, 2011. This means that we are still under the permits terms.

There is also a possibility that we will have an extension of additional 6 months. The petition requesting such extension was given to the City on May 7, 2011.

Mr. Dan O'lin, in a confused circumstances and pressure of the people who live at Imperial Lane who have been insensitive of the economic reality of this country, created the unfair problem which caused us the penalties we are having now and keep accumulating. This is putting more stress in the difficult labor of keep this project going.

Just to mention, another person just abandoned a house for foreclosure as many people have done, letting the City and the community in a difficult situation that will probably take years to be fixed.

I am trying very hard to bring the resources to this Country from Turkey. As we know it should be the goal that our economy be revitalized; with all these resources coming back to our economy, it helps creating the jobs that we desperate need.

# Exhibit 1

There is also other factor that should be in consideration that has delayed the progress of the work. It is the confusion with the inspection that the building department had. We were not able to keep working due to that. It has been given us, one month extension, factor that is very irregular, since only 6 months extensions are given.

I have problems with the money transfer, because the banks slow the process with multiple requirements that we understand. The banks want to be sure the origin of the money and the use of such money so that it is not for use on bad purposes. There was a time which I was obligated to stop the work for a couple of days due to that.

Kim Williams knows that the City Attorney understands the problematic situation

The reason of this letter is to request to have penalty fees given by the Special Magistrate Order and Certify in the hearing on April 20, 2011 to be waived.

We know that I will hardly be able to recover all the money invested in this project. And any over cost will diminish any chance of this. I would like also to change the wrong image the community has about our hard work and our commitment is to finish this job as soon as the circumstances allow.

As a community we have the responsibility to see the effort we are all doing to improve the City and be a little understanding when difficult situation happens with one of our members.

I will understand that and it is my hope the community and the authorities will see the same way.

I am trying every way for the conciliation.

Regards,



Murat Kiroglu

# Exhibit 1

## To whom it may concern

**Property Address:** 240 Imperial Lane, Lauderdale-By-The-Sea, FL 33308

**Property ID:** 9318-04-0360

I, hereby authorize Fernando Mesa, G.C. to represent myself on the hearing scheduled for March 16, 2011 in reference to the CASE No 10-KW-00268. If there are any changes on the hearing date or time he is also authorized to represent me on this matter.

A handwritten signature in black ink, appearing to read 'Murat Kiroglu', written over a horizontal line.

Murat Kiroglu, Owner

# Exhibit 2

## **Sec. 6-12.- Time limits for completing construction and repair.**

- (a) The construction of any new structure or new addition to an existing structure shall be completed and all construction material, equipment and debris removed from the property within 18 months of the date of the issuance of the first building permit.
- (b) The exterior elements of any repair or renovation to an existing structure, which requires a building permit shall be completed and all construction material, equipment and debris removed from the property within six months of the issuance of the first building permit.
- (c) When there are extenuating circumstances which prohibit completion of construction, repairs, or restoration within the time periods set forth above, the property owner may file with the Town Clerk a request for extension of time. The request for extension shall be reviewed by the Town Commission at a public meeting following notice of the request mailed to property owners within 400 feet of the property where the work is being performed. The mailing shall be postmarked no less than ten calendar days prior to the public meeting. The cost of notice shall be borne by the property owner seeking the extension of time.
- (d) For purposes of this section, structure shall be defined as any single-family residence or multi-family building not exceeding ten units.
- (e) Enforcement and penalty for violation of this section of the Code shall be as follows:
- (1) Each day of violation, day 1—30 \$50.00
  - (2) Each day of violation, day 31—60 100.00
  - (3) Each day of violation, day 61 or greater 500.00

Each calendar day on which a violation exists shall constitute a separate violation for the purpose of determining the fine.

(f) A violation of this section may be prosecuted as a nuisance. The Town Attorney may bring suit on behalf of the Town, or any affected citizen may bring suit in his/her name against the person or persons causing or maintaining the violation, or against the owner/agent of the building or property on which the violation exists. Relief may be granted according to the terms and conditions of F.S. ch. 60, entitled "Abatement of Nuisances."

(g) Prior to initiating enforcement action, the Town shall first provide a minimum of 60 days notice of the requirements of this subsection of this Code section to the property owner. The notice shall be in substantially the following form:

### NOTICE TO OWNER

Be advised that pursuant to Ordinance \_\_\_\_\_, you are required to complete construction, restoration and repairs to the structure located at \_\_\_\_\_, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_. Failure to do so can result in a fine or

## Exhibit 2

legal action by the Town. If there are extenuating circumstances that prohibit you from completing the construction in the time allowed by time stated above, you can seek an extension from the Town Commission. A form application for extension can be obtained from the office of the Town Clerk.

(h) Any structure which had a building permit issued on or before January 1, 2004 which has not yet received a certificate of occupancy as of the date [June 14, 2005] the ordinance from which this section derives is adopted, shall have 90 days from the date this section is adopted to complete the construction and receive a certificate of occupancy. The failure to do so shall constitute a violation of this section.

(Ord. No. 2005-09, § 2, 6-14-05)

**Editor's note**— Ord. No. 2005-09, § 2, adopted June 14, 2005, amended the Code by adding provisions designated as § 6-8. In order to avoid conflicts in section numbering the editor has renumbered the provisions of Ord. No. 2005-09 as herein set out.

# EXHIBIT 3

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## CODE HISTORY FOR 240 IMPERIAL LANE

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**DATE:** JULY 13, 2011

1. Opened case on 5/14/09 for Construction Site Maintenance - loose debris on roof. Case complied 6/6/2009.
2. Opened case on 5/14/2009 for Construction Site Maintenance - construction debris left at site. Case complied on 6/6/2009.
3. Opened case on 5/30/2009 for Unmaintained Property - yard overgrown. Case complied on 6/10/2009.
4. Opened case on 5/30/2009 for Overgrown Vegetation - trees and bushes are overgrown. Case complied 7/7/2009.
5. Opened case on 5/30/2009 for Construction Site Maintenance - dumpster must be covered to prevent debris from blowing. Case complied 7/10/2009.
6. Opened case on 5/30/2009 for Construction Site Maintenance - construction site fence in disrepair, 6 foot chain link fence with screening needed. Case complied 7/7/2009.
7. Opened case on 7/7/2009 for Construction Site Maintenance - construction debris left at site. Case complied 7/12/2009.
8. Opened case on 7/7/2009 for Unmaintained Property - yard overgrown. Case complied 7/12/2009.
9. Opened case on 1/19/2010 for Construction Site Maintenance - overgrown property. Case complied 2/1/2010.
10. Opened case on 1/19/2010 for Trash and Debris - debris not removed. Case complied 3/17/2010. Case was heard at the February code hearing, Admin fee paid, no fine accrued.
11. Opened case on 1/21/2010 for No Permit - construction fence in right of way. Case complied 2/9/2010.
12. Opened case on 1/21/2010 for Construction Site Maintenance - missing silt fence along waterway. Case complied 2/9/2010.
13. Opened case on 3/31/2010 for Construction Site Maintenance - loose fence screening. Case complied 4/9/2010.
14. Opened case on 5/4/2010 for Overgrown Property. Case complied 5/18/2010.
15. Opened case on 5/10/2010 for No Permit - demo permit expired. Case complied 6/14/2010.
16. Opened case on 5/10/2010 for Nuisance - overgrowth and no work being performed. Case complied 6/13/2010.
17. Opened case on 7/1/2010 for Construction Site Maintenance - advised of needing a dumpster cover, bathroom facility, dust control and no parking on grass.
18. Opened case on 7/20/2010 for Overgrown Property. Case complied 7/23/2010.

# EXHIBIT 3

19. Opened case on 7/20/2010 for Parking Violation - parking on grass. Case complied 7/20/2010.
20. Opened case on 7/20/2010 for No Permit - electric. Case complied 8/2/2010.
21. Opened case on 8/16/2010 for Overgrown Property. Case complied 8/18/2010.
22. Opened case on 8/26/2010 for Construction Site Maintenance – construction debris. Case complied 9/9/2010.
23. Opened case on 9/21/2010 for Overgrown Property. Case complied 10/12/2010.
24. Opened case on 9/21/2010 for Construction Site Maintenance – gaps in construction fence and screening. Case complied 10/12/2010.
25. Opened case on 9/21/2010 for Unmaintained Property – dirt eroding away from seawall. Case complied 10/12/2010.
26. Opened case on 11/6/2010 for Construction Site Maintenance – Loose screening. Case complied 11/22/2010.
27. Opened case on 11/29/2010 for Overgrown Property. Case complied 12/14/2010.
28. Opened case on 12/1/2010 for No Permit – Permits Expired. Property remains in violation until work is completed. A daily fine is accruing and a lien was recorded.
29. Opened case on 3/17/2011 for Dead Flora. Case complied on 3/18/2011.
30. Opened case on 3/17/2011 for No Construction Dumpster. Case complied 4/5/2011.
31. Opened case on 3/24/2011 for Sign in R.O.W. Case complied same day.
32. Opened case on 4/25/2011 for Overgrown Property. Case complied on 4/28/2011.

# Exhibit 4

-Note: The Town Commission has granted the following extensions within the past 2 years to similar projects:

Address	Date of Extension	Extension	Completed	
4 Sunset Lane	06-23-09 11-10-09 06-09-10	3 Months 4 Months 3 Months	09-10-10	
4432-4434 Bougainvilla	06-23-09 10-27-09 06-09-10	3 Months 3 Months 2 months	08-13-10	
4436-4438 Bougainvilla	06-23-09 10-27-09 06-09-10	3 Months 3 Months 2 months	08-26-10	

# EXHIBIT 4

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## INTEROFFICE MEMORANDUM

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**TO:** JEFF BOWMAN, DEVELOPMENT SERVICES DIRECTOR  
**FROM:** KIMBERLY WILLIAMS, CODE COMPLIANCE OFFICER  
**SUBJECT:** 4 SUNSET LANE  
**DATE:** 07/14/2011

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I researched notice of violation cases on the above referenced property. The following lists the cases and outcomes:

- Opened case on 12/13/2007 for permits not posted at site. Case complied 12/19/2007.
- Opened case on 12/13/2007 for unsecured pool. Case complied 12/19/2007.
- Opened case on 12/13/2007 for Construction Site Maintenance – No construction fence around site. Case complied 12/19/2007.
- Opened case on 3/13/2008 for Sewer Connection Required. Case complied 4/9/2008.
- Opened case on 9/27/2008 for Construction Site Maintenance – remove debris. Case complied 11/19/2008.
- Opened case on 9/27/2008 for Construction Site Maintenance – unsecured site. Case complied 11/19/2008.
- Opened case on 11/03/2008 for Overgrown Property. Case complied 11/10/2008.
- Opened case on 11/03/2008 for Address not posted. Case complied 11/10/2008.
- Opened case on 9/08/2009 for Address not posted. Case complied 10/26/2009.

# EXHIBIT 4

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## INTEROFFICE MEMORANDUM

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**TO:** JEFF BOWMAN, DEVELOPMENT SERVICES DIRECTOR  
**FROM:** KIMBERLY WILLIAMS, CODE COMPLIANCE OFFICER  
**SUBJECT:** 4432-4438 BOUGAINVILLE DRIVE  
**DATE:** 07/14/2011

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I researched notice of violation cases on the above referenced property. The following lists the cases and outcomes:

- Opened case on 2/26/2007 for Construction Site Maintenance - permits not posted at site. Case complied 4/18/2007.
- Opened case on 6/1/2007 for Construction Site Maintenance – Fence encroaching onto sidewalk. Case complied 6/15/2007.
- Opened case on 3/17/2009 for Damage to Town Property. Case complied 12/18/2009.
- Opened case on 4/30/2009 for Deviation from approved site plan. Case complied 5/29/2009.
- Opened case on 9/22/2009 for Obstructing Right Of Way. Case complied 9/22/2009.
- Opened case on 12/2/2009 for Obstructing Right Of Way. Case complied 12/3/2009.
- Opened case on 1/28/2010 for Obstructing Right Of Way. Case complied 1/28/2010.
- Opened case on 6/13/2010 for Construction During Restricted Hours. Case complied 6/13/2010.
- Opened case on 6/13/2010 for Overgrown Property. Case complied 6/19/2010.
- Opened case on 4/14/2011 for No Business Tax Receipt. Case complied 6/6/2011.

Exhibit 5

July 7, 2011

7/7/11

