Item No. 17d

AGENDA ITEM REQUEST FORM

Development Services
Department Submitting Request

Zoning/Code Supervisor

REG COMMISSION Meeting Dates 7:00PM	DEADLINE TO Town Clerk's Office	ROUNDTABLE Meeting Dates 7:00PM	DEADLINE TO Town Clerk's Office
☒ May 24, 2011	** (5:00 pm)	☐ May 10, 2011	** (5:00 pm)
☐ June 28, 2011	** (5:00 pm)	☐ June 14, 2011	** (5:00 pm)
☐ July 26, 2011	** (5:00 pm)	☐ July 12, 2011	** (5:00 pm)

*Subject to Change

☐ Presentation ☐ Reports ☐ Consent ☐ Ordinance
☐ Resolution ☐ Quasi Judicial ☐ Old Business ☒ New Business

SUBJECT TITLE: Commission Approval of Applications for Relief from Code Enforcement Liens at 4001 Ocean Drive.

EXPLANATION:

On December 2, 2004, the Town issued five Notices of Violation for code enforcement violations on the above-referenced commercial property. On January 18, 2005, the Special Magistrate ordered the property owner to comply within 120 days (May 18, 2005) or a $100 dollar a day fine would commence. The owner of this commercial property now seeks relief from code enforcement liens totaling $600,300.00. The requested relief requires approval by the Town Commission. The applicant has asked that each case be considered separately.

The table below summarizes the history of the code enforcement cases:

Case	Violation	Days in Violation	Lien	Relief Requested	Offered Settlement	% of Reduction
Case 1: No. 04-2216 The violation was complied under demolition permits 09-01028 and 09-01384 obtained by the Respondent on July 14, 2009. The permits were closed (and violations complied) on October 19, 2009.	No Electrical Permit for Oxygen Tank	1,615	$161,500	$156,500	$5,000	97%
Case 2: No. 04-2217 The violation was complied under demolition permits 09-01028 and 09-01384 obtained by the Respondent on July 14, 2009. The permits were closed (and violations complied) on October 19, 2009.	No Plumbing Permit for Oxygen Tank	1,615	$161,500	$156,500	$5,000	97%
Case 3: No. 04-2218 The violation was complied under demolition permits 09-01028 and 09-01384 obtained by the Respondent on July 14, 2009. The permits were closed (and violations complied) on October 19, 2009.	No Structural Permit for Oxygen Tank	1,615	$161,500	$156,500	$5,000	97%

Case	Violation	Days in Violation	Lien	Relief Requested	Offered Settlement	% of Reduction
Case 4: No. 04-2219 The violation was complied under fire sprinkler permit 05-05945. The permit was closed (and violations complied) by a passing final inspection on December 18, 2006.	No Plumbing Permit for Fire Sprinkler Installation	579	$57,900	$55,400	$2,500	96%
Case 5: No. 04-2220 The violation was complied under fire sprinkler permit 05-05945. The permit was closed (and violations complied) by a passing final inspection on December 18, 2006.	No Electrical Permit for Fire Sprinkler Installation	579	$57,900	$55,400	$2,500	96%
Total			**$600,300**	**580,300**		**97%**
Direct Town Expense (1)			**$18,582.70**			
Total			**$618,582.70**	**$593,525**	**$20,000**	**96.8%**

(1) The total cost to the Town to process these cases is $18,582.70
Staff time and costs = $2,913.20
Town Attorney legal fees = $14,340.50
Fixed costs = $1,329 (Administrative and recording fees)

Under the Town's procedures for relief from code enforcement liens, a request for relief is to be evaluated using the following criteria:

1. The nature and gravity of the violations.

   Response: The violations were considered to present serious safety issues/concerns.

2. Any actions taken by the Respondent to correct the violation.

   Response: The owner retained contractors to obtain permits in 2005. However, the amount of time the Respondent took to correct the violations after the deadlines under the January 18, 2005 Final Orders had expired was an additional 4 years, 5 months, and 1 day (1,615 days).

3. The length of time between the previously ordered compliance date and the date the violation was brought into compliance.

   Response: The time ranged from 579 days to 1,615 days per violation.

4. Any actual costs expended by the Respondent to cure the violation as provided by supporting documentation.

   Response: The Respondent provided a spreadsheet within the back-up indicating that $422,756.00 was spent on the Medical Center (Exhibit 6). Please note that $207, 500 of that amount was spent on attorney fees, a portion of which was to argue against the legitimacy of the Town's liens.

5. Any other prior or current violations committed by the Respondent on the subject property or upon any other property owned by the Respondent within the Town.

   Response: No.

6. Equitable considerations.

   Response: The Respondent's counsel presented various allegations concerning the validity of the liens, none of which had merit, but which caused the Town to incur considerable legal expenses ($14,340.50). The Town Attorney has determined the liens are valid and the relevant issue before the Commission is whether the Commission will provide relief.

RECOMMENDATION:

Staff recommends that the request be denied. Staff advised the respondent that we would not recommend approval of the amounts they proposed as they were, in our opinion, not reasonable. Their proposal barely covers the Town's actual costs.

Should the Commission set an amount of relief you will authorize, we strongly urge that the Town's actual costs ($18,582.70) in dealing with these cases be added to the lien settlement amounts you will accept.

EXHIBIT(S):

Exhibit 1 - Respondents Application for case #04-2216
Exhibit 2 - Respondents Application for case #04-2217
Exhibit 3 - Respondents Application for case #04-2218
Exhibit 4 - Respondents Application for case #04-2219
Exhibit 5 - Respondents Application for case #04-2220
Exhibit 6 - Spreadsheet of expenses by applicant.

FISCAL IMPACT AND APPROPRIATION OF FUNDS: N/A

☐ Amount $_____ ☐ Acct # _____
☐ Transfer of funds required ☐ From Acct #_____

Town Attorney review required
☒ Yes ☐ No

Town Manager Initials _____

LORI PARRISH BROWARD COUNTY PROPERTY APPRAISER

Site Address	4001 N OCEAN DRIVE , LAUDERDALE BY THE SEA	ID #	4943 18 04 0750
Property Owner	OCEAN MEDICAL CENTER LLC	Millage	0211
Mailing Address	4001 N OCEAN DR SUITE 105 LAUD BY THE SEA FL 33308	Use	19

Legal Description	LAUDERDALE SURF & YACHT ESTATES 22-46 B LOT 38,39 BLK 2 TOGETHER WITH POR OF 35 FT ROADWAY LYING SO BLK 2,BEG SW COR LOT 38 BLK 2,E 80,S 135,W 80,N 35 TO POB & BEG SW COR LOT 39 BLK 2,E 38.56,NELY & NLY AN ARC DIST 40.67,S 61.49, W 66.96,N 35 TO POB

The just values displayed below were set in compliance with Sec. 193.011, Fla. Stat., and include a reduction for costs of sale and other adjustments required by Sec. 193.011(8).

Property Assessment Values

Click here to see 2010 Exemptions and Taxable Values reflected on Nov. 1, 2010 tax bill.

Year	Land	Building	Just Value	Assessed / SOH Value	Tax
2011	$501,750	$1,540,510	$2,042,260	$2,042,260	
2010	$501,750	$1,758,020	$2,259,770	$2,259,770	$48,303.29
2009	$501,750	$1,976,050	$2,477,800	$2,477,800	$51,289.80

IMPORTANT: The 2011 values currently shown are very preliminary numbers. Those numbers will change frequently online as we make various adjustments until they are finalized on June 1. Please check back here AFTER June 1, 2011, to see the actual proposed 2011 assessments and portability values.

2011 Exemptions and Taxable Values by Taxing Authority

	County	School Board	Municipal	Independent
Just Value	$2,042,260	$2,042,260	$2,042,260	$2,042,260
Portability	0	0	0	0
Assessed/SOH	$2,042,260	$2,042,260	$2,042,260	$2,042,260
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exempt Type	0	0	0	0
Taxable	$2,042,260	$2,042,260	$2,042,260	$2,042,260

Sales History

Date	Type	Price	Book	Page
11/30/2010	QCD-T	$100	47580	1632
12/20/2005	TD	$100	41447	1717
4/1/1991	WD	$100	18302	862

Land Calculations

Price	Factor	Type
$3,000	167.25	FF
Adj. Bldg. S.F. (See Sketch)		19030

Special Assessments

Fire	Garbage	Light	Drainage	Improvement	Safe
02			LB		
C			LB		
19030			5.15		

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

Detail by Entity Name

Florida Limited Liability Company

OCEAN MEDICAL CENTER, L.L.C.

Filing Information

Document Number	L00000013695
FEI/EIN Number	542127865
Date Filed	11/02/2000
State	FL
Status	ACTIVE
Last Event	AMENDMENT
Event Date Filed	12/21/2005
Event Effective Date	NONE

Principal Address

4001 NORTH OCEAN DRIVE
SUITE 105
LAUDERDALE BY THE SEA FL 33308

Changed 04/29/2005

Mailing Address

4001 NORTH OCEAN DRIVE
SUITE 105
LAUDERDALE BY THE SEA FL 33308

Changed 04/29/2005

Registered Agent Name & Address

REILLY, VINCE
4001 NORTH OCEAN DRIVE
SUITE 105
LAUDERDALE BY THE SEA FL 33308 US

Name Changed: 04/29/2005

Address Changed: 04/29/2005

Manager/Member Detail

Name & Address

Title MGR

NEUBAUER, WINNIE
4001 OCEAN DRIVE SUITE 105
LAUDERDALE BY THE SEA FL 33308

Annual Reports

Report Year	Filed Date
2009	03/30/2009
2010	04/22/2010
2011	04/18/2011

Document Images

04/18/2011 -- ANNUAL REPORT	View image in PDF format
04/22/2010 -- ANNUAL REPORT	View image in PDF format
03/30/2009 -- ANNUAL REPORT	View image in PDF format
04/08/2008 -- ANNUAL REPORT	View image in PDF format
03/26/2007 -- ANNUAL REPORT	View image in PDF format
05/05/2006 -- ANNUAL REPORT	View image in PDF format
12/21/2005 -- Amendment	View image in PDF format
04/29/2005 -- ANNUAL REPORT	View image in PDF format
01/23/2004 -- ANNUAL REPORT	View image in PDF format
04/30/2003 -- ANNUAL REPORT	View image in PDF format
05/01/2002 -- ANNUAL REPORT	View image in PDF format
04/26/2001 -- ANNUAL REPORT	View image in PDF format
11/02/2000 -- Florida Limited Liabilites	View image in PDF format

Note: This is not official record. See documents if question or conflict.

Previous on List | Next on List | Return To List

Entity Name Search | Submit

Events

No Name History

Copyright © and Privacy Policies
State of Florida, Department of State

Exhibit 1

W.I.N. 5/12/11

TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 776-0576
Fax: (954) 776-1857

APPLICATION FOR RELIEF FROM CODE ENFORCEMENT FINES OR LIENS

Case # 04-2216

* No application will be accepted or processed unless all violations on the property have been placed in compliance by Code Enforcement

CASE #_____

TOWN OF LAUDERDALE-BY-THE-SEA vs. Richard Neubauer Richard A. Neubauer Revocable Trust
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Winnie I. Neubauer, Manager of Ocean Medical Center, L.L.C. (Owner of Property.)
(Person to attend Hearing)

ADDRESS OF APPLICANT: 4001 North Ocean Drive
(Full mailing address) Lauderdale-By-The-Sea, FL 33308

PHONE NUMBER: 954-771-4000

ADDRESS OF PROPERTY: 4001 North Ocean Drive
(Where violation(s) existed) Lauderdale-By-The-Sea, FL 33308

NATURE OF VIOLATION: Code Violations for failure of a VENDOR (Matheson Tri-Gas) to obtain a building permit before changing out an existing 1,500 gallon oxygen tank.

THIS PROPERTY CURRENTLY IS ☐ IS NOT ☒ (check one) INVOLVED IN LITIGATION

All Applications for Relief (where applicable) MUST have the following documentation provided as part of the Application to be reviewed:

N/A 1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
N/A 2. A copy of the Foreclosure Complaint;
3. A copy of the Foreclosure Order, with the recording date, book and page shown;
4. A copy of the Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. A copy of the Certification of Lien Order, with the recording date, book and page shown;
6. A copy of the new Certificate of Title, with the recording date, book and page shown;
7. A copy of the Town's Final Order of Imposition of Fine; and
8. A copy of the Claim of Lien(s) with the recording date, book and page shown.

Please provide a copy of these requirements with all Applications for Relief.

LAUDERDALE-BY-THE-SEA RECEIVED MAY 12 2011 DEVELOPMENT SERVICES

FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

A. The nature and gravity of the violation(s);
B. Any actions you have taken to correct the violation(s);
C. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
D. Any actual costs you expended to cure the violation(s), if supported by documentation;
E. Any other prior or current violations committed on the subject property or upon any other property you own within the Town; and
F. Equitable considerations.

WHY RELIEF SHOULD BE GRANTED (This section must be completed and, at a minimum, should address the above factors): See Attached

(Attach additional pages if needed, along with any supporting documentation)

IF APPLICABLE:
Name Of Attorney/Representative: _____

Address: _____

Phone Number: _____

I CERTIFY THAT I am the current owner of the subject property or an Attorney for said owner, or that I am the legal representative for the property or otherwise authorized to act on behalf of the property owner in this matter.

Winnie Neubauer 5/12/11
Signature of Applicant Date

(NOTE: Proof of such lawful authority or written authorization from the property owner must be provided by the applicant prior to this matter proceeding.)

Subsection F

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

May 11, 2011

Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Town of Lauderdale-By-The-Sea v. Richard Neubauer, et al
Case No.: 04-2216 (Oxygen Tank)

Dear Town of Lauderdale-By-The-Sea:

As you are aware, the Town of Lauderdale-By-The-Sea (Town) has informed Ocean Medical Center, LLC, a/k/a Neubauer Hyperbaric Neurologic Center, Inc. (OMC), that there are accumulated fines in the above referenced case. According to numerous conversations with representatives of the Town whom assured us that the Town was only interested in collecting administrative fees in the above referenced case, OMC is offering $5,000.00 to settle this case based upon the information provided in our second Application for Relief from Code Enforcement Fines or Liens and an explanatory letter from attorney Kenneth V. Hemmerle, II, Esq., dated September 2, 2010.

We would appreciate your prompt consideration to resolve this matter as it has been continuing on for years and has caused an extreme financial burden on OMC.

Sincerely,

Winnie Neubauer

Winnie Neubauer
Owner

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the PETITIONER Town met its burden of providing by substantial competent evidence, that the alleged violation(s) does in fact exist on the subject property.

ORDER

THEREFORE, BASED UPON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UNDERSIGNED SPECIAL MASTER FINDS THE RESPONDENT GUILTY OF VIOLATING: CODE SECTION 24-5.148 (1).

IN DETERMINING THE FINE AMOUNT TO BE IMPOSED, CONSIDERATION WAS GIVEN TO: (1) THE GRAVITY OF THE VIOLATION(S), (2) ANY ACTIONS TAKEN BY THE RESPONDENT(S) TO CORRECT THE VIOLATION(S); AND (3) ANY PREVIOUS VIOLATIONS COMMITTED BY THE RESPONDENT(S).

FINALLY, THE SPECIAL MASTER FINDS THAT THE RESPONDENT BE GIVEN ONE HUNDRED AND TWENTY (120) DAYS FROM THE DATE OF THIS ORDER TO CORRECT SUCH VIOLATION BY PERMITING, COMPLETING THE WORK AND OBTAINING ALL INSPECTIONS. FAILURE TO COMPLY WITHIN THE SPECIFIED TIME PERIOD SHALL SUBJECT THE RESPONDENT TO A FINE OF ONE HUNDRED AND NO/100 DOLLARS ($100.00) PER DAY. THE PETITIONER HAS REQUESTED AN ADMINISTRATIVE FEE AGAINST THE RESPONDENT IN THE AMOUNT OF ONE HUNDRED FIFTY DOLLARS AND NO/100 ($150.00). THE SPECIAL MASTER GRANTS THE PETITIONER'S REQUEST OF THE ONE HUNDRED FIFTY AND NO/100 DOLLARS ($150.00) ADMINISTRATIVE FEE AGAINST THE RESPONDENT.

Done and Ordered this 19th **day of January, 2005 at Lauderdale By The Sea, Florida.**

Ian M. Berkowitz, Special Master

ATTEST:

Alina Medina, Town Clerk for the Special Master

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

16th day of Feb, 20 06

Town clerk

TOWN OF LAUDERDALE BY THE SEA
CODE COMPLIANCE SPECIAL MASTER

CASE NUMBER: 04-2216

TOWN OF LAUDERDALE BY THE SEA,

Petitioner

vs.

RECEIVED
FEB 0 4 2005
BY: C. Lupetin for LBTS

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 SE 19th Avenue
Lauderdale By The Sea, FL 33062,

Respondent

FINAL ORDER

HEARING DATE: 18th DAY OF JANUARY, 2005.

VIOLATION(S): CODE SECTION 24-5.148 (1)

An administrative hearing was held before the Special Master on January 18, 2005. Set out below are the findings of fact, conclusions of law and final order for the subject hearing.

FINDINGS OF FACT

The record indicates that the RESPONDENT owns certain real property located at 4001 Ocean Drive, Lauderdale By The Sea, Florida 33308 and more particularly described as follows:

Tax Folio Number (Property I.D.): 9318-04-075

At the hearing held on this matter on January 18, 2005 the PETITIONER Town presented testimony by Code Enforcement Officer Kami Parker, concerning her personal knowledge of the existence of the subject violation(s), and entered into record evidence of notice required under Chapter 162 Florida Statutes. Respondent, RICHARD A. NEUBAUER REVOCABLE TRUST was not present at the hearing.

given to: (1) the gravity of the violation(s), (2) any actions taken by the Respondent(s) to correct the violation(s); and (3) any previous violation(s) committed by the Respondent(s).

3. That this Certification, together with the original Final Order, be recorded in the Public Records of the Office of the Clerk of the Circuit Court in and for Broward County, Florida. Pursuant to Section 162.09, Florida Statutes, these documents, once recorded, shall constitute a lien against the land on which the violation(s) exist, and upon any other real or personal property owned by Respondent(s).

4. If any person desires to appeal, pursuant to Section 162.11, Florida Statutes, such person will need a record of the proceedings which includes the testimony and evidence upon which the appeal is based.

Certification of Lien ordered at Lauderdale-By-The-Sea this 30th day of January, 2006.

ATTEST:

BY: _____
Alina Medina, Town Clerk

Special Magistrate of the Town of Lauderdale-By-The-Sea

BY: _____
Ian M. Berkowitz, Special Magistrate

State of Florida
County of Broward

On this, the 14th day of February, 2006, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by Alina Medina, Town Clerk, and Ian M. Berkowitz, Special Magistrate of the Town of Lauderdale-By-The-Sea, Florida.

WITNESS my Hand and Official Seal

JUNE A. WHITE
Notary Public - State of Florida
My Commission Expires Aug 15, 2008
Commission # DD119085
Bonded By National Notary Assn.

_____
Notary Public, State of Florida

JUNE A. WHITE
Printed, typed or stamped name of
Notary Public exactly as Commissioned.

✓ Personally known to me

Copies furnished to:
Richard Neubauer
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, Florida 33062

CFN # 105798157, OR BK 41480 Page 1896, Page 1 of 4, Recorded 02/17/2006 at 10:31 AM, Broward County Commission, Deputy Clerk 2030

Please Return Recorded Document to:
Code Enforcement Division
Development Services Department
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

BEFORE THE SPECIAL MAGISTRATE
TOWN OF LAUDERDALE-BY-THE-SEA

ORDER IMPOSING FINE/CERTIFICATION OF LIEN

TOWN OF LAUDERDALE-BY-THE-SEA,

Petitioner

v.

Case No. 04-2216

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, FL 33062,

Respondent(s).
_____/

The above referenced case was heard on January 18, 2005. The Respondents were found in violation of the Town Code of Ordinances and given until May 18, 2005 to comply the violation. An Affidavit of Non-Compliance was issued on February 3, 2006.

The property located at 4001 Ocean Drive, Lauderdale-By-The-Sea, Florida, corresponding to Folio # 9318-04-0750, is still in violation of the Town's Code of Ordinances.

Therefore, pursuant to Section 162.09, Florida Statutes, the Special Magistrate certifies as follows:

1. The Order of January 18, 2005 required the Respondents to comply the violation by May 18, 2005, and if compliance was not met within the specified time frame, a fine of One Hundred and 00/100 Dollars ($100.00) per day, would commence and continue to accrue for each day thereafter that the violation exists.

2. The Respondent(s) violated the Order of January 18, 2005 and the Respondent(s) continue to violate the Order; therefore, the Special Magistrate imposes and certifies a fine in the amount of One Hundred and 00/100 ($100.00) per day, plus administrative costs, beginning May 18, 2005, which shall continue to accrue until the Respondents come into compliance or until a judgment is entered based upon this certification of fine. In determining the fine amount to be imposed, consideration was

FILE
FEB 13 2006
BY: CJ

(4)

EXHIBIT A

Lots Thirty-eight (38) and Thirty-nine (39), Block 2, Lauderdale Surf and Yacht Estates, according to the plat thereof recorded in Plat Book 32, Page 46, of the public records of Broward County, Florida.

Signed, sealed and delivered in our presence:

Witness Name: Andrew Berger

Witness Name: Daniel R. Lioce

Richard A. Neubauer, Individually and as Trustee

Winnie I. Neubauer, Individually and as Trustee

State of Florida
County of Palm Beach

The foregoing instrument was acknowledged before me this 20th day of December, 2005 by Richard A. Neubauer and Winnie I. Neubauer who [X] are personally known or [ ] have produced a driver's license as identification.

[Notary Seal]

Notary Public

Printed Name: _____

My Commission Expires: _____

Michele Grabasch
MY COMMISSION # DD085220 EXPIRES
February 1, 2006
BONDED THRU TROY FAIN INSURANCE, INC.

H:\7895\17861\DTrusteesDeedscw

DoubleTime®

CFN # 105780741, OR BK 41447 Page 1717, Page 1 of 3, Recorded 02/11/2006 at 09:29 AM, Broward County Commission, Doc. D $0.70 Deputy Clerk 3075

Prepared by and return to:
Andrew M. Berger
Attorney at Law
Nason Yeager Gerson White & Lioce, PA
1645 Palm Beach Lakes Blvd. Suite 1200
West Palm Beach, FL 33401
561-686-3307
File Number: 7677-18053
Will Call No.: 155

[Space Above This Line For Recording Data]

Trustee's Deed

This Trustee's Deed made this **20th** day of **December, 2005** between Richard A. Neubauer and Winnie I. Neubauer, Individually and as Trustees of Richard A. Neubauer Revocable Trust Agreement dated September 8, 1982, as amended by First Amendment dated March 2, 1983, and amended by a second amendment dated September 2, 1983, restated in its entirety on January 23, 1991, and subsequently amended by an amendment designated a Second Amendment dated August 28, 1996 to the Restatement dated January 23, 1991, and restated in its entirety by a Second Restatement dated September 22, 2000, and subsequently amended by a First Amendment dated April 1, 2002 to the Second Restatement dated September 22, 2000, and subsequently amended by a further amendment inadvertently designated the Third Amendment dated October 6, 2002, to the Second Restatement dated September 22, 2000, and restated in Third Restatement of the Richard A. Neubauer . Revocable Trust Agreement dated September 15, 2004 whose post office address is 4001 North Ocean Drive, Suite 105, Lauderdale by the Sea, FL 33308 , grantor, and **Ocean Medical Center, LLC, a Florida limited liability company** whose post office address is 4001 North Ocean Drive, Suite 105, Lauderdale by the Sea, FL 33308, grantee:

(Whenever used herein the terms grantor and grantee include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantees heirs and assigns forever, the following described land, situate, lying and being in **Broward County**, Florida, to-wit:

See Exhibit "A" attached hereto and made a part hereof

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under grantors.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

DoubleTime®

3

Kenneth V. Hemmerle, II
Professional Association
Attorney at Law

SUITE E
1322 NORTHEAST FOURTH AVENUE
Fort Lauderdale, Florida 33304

TELEPHONE (954) 768-9116
TELECOPIER (954) 768-9117

E-mail: KVHIILAW@aol.com
www.hemmerlelaw.com

September 2, 2010

Town of Lauderdale- By- The- Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case Nos: Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2216 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2217 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2218 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2219 (Fire Sprinklers)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2220 (Fire Sprinklers)

Dear Sir or Madam:

This office represents Ocean Medical Center, L.L.C., ("Ocean") the owner of the property located at 4001 North Ocean Drive, Lauderdale-By-The-Sea, Florida 33308 ("the property"). This letter is an attachment to the Application for Relief from certain liens arising out of the above case numbers which were recorded by the Town of Lauderdale-By-The-Sea ("the Town") against Ocean's property. This letter will serve as an explanation as to why relief from the recorded liens should be granted to Ocean.

Ocean received title to the property on December 20, 2005 from Richard A. Neubauer and Winnie I. Neubauer, individually and as Trustees of the Richard A. Neubauer Revocable Trust Agreement dated September 8, 1982, as amended and restated. A copy of the Trustee's Deed is attached hereto.

On Ocean's property is a 1,500 gallon oxygen tank which serviced Ocean Hyperbaric Neurologic Center, Inc. ("Ocean Hyperbaric"), a tenant in Ocean's building.

Ocean Hyperbaric had a contract with Matheson TriGas, Inc. ("TriGas") to supply Ocean Hyperbaric with oxygen which is utilized in its business. The tank and all of the mechanical equipment and apparatus attached to the tank is and was owned by TriGas. In June, 2004 as part of its contractual relationship with Ocean Hyperbaric, TriGas determined that it was necessary to remove an existing 1,500 gallon oxygen tank that it had been supplying oxygen to from Ocean Medical's property and replace it with another 1,500 gallon oxygen tank. In June, 2004, TriGas, prior to removing the existing 1,500 gallon oxygen tank was told by a representative of Ocean Medical that a building permit had to be obtained from the Town as part of their replacing the oxygen tank.

During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). The Fire

Department investigated the incident. As a result of the Fire Department's investigation Ocean Medical was cited with code violations (Case Nos.: 04-2216, 04-2217 and 04-2218) for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned. Neither Ocean nor Ocean Hyperbaric own the oxygen tank.

Case Nos.: 04-2219 and 04-2220 involve the failure to obtain a permit for plumbing and electrical in connection with fire sprinklers in the building where the property is located. Ocean had hired a company by the name of Able Fire Sprinkler, Inc. to install the fire sprinklers. Ocean was told that the job had been finaled and approved by the Town. Ocean learned later that the work had not been finaled and approved by the Town, and that Able Fire Sprinkler went of business. Ocean then hired Carribbean Fire and Associates to take over and finish the job which they did.

After receiving the code violations in Case Nos.: 04-2216, 04-2217 and 04-2218 Richard Neubauer began a process of hiring construction professionals and design professionals to correct the code violations and pull the necessary permit which was not successful.

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr.Bradford D. Townsend, Planning and Zoning Administrator with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the meeting and discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the time that the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building

inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him, Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $200,000.00 in costs to come into compliance. Ocean should also be given relief from the liens in Case Nos.: 04-2219 and 04-2220 because Ocean had hired a contractor to install the fire sprinklers in the building, was subsequently told that the job had been finaled and approved by the Town, the company then went of business and Ocean was required to hire another fire sprinkler contractor to take over and finish the work.

Sincerely,

Kenneth V. Hemmerle, II

KVH,II
Enclosure

Subsection A

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

There are 5 cases encompassing the code violations pertaining to Ocean Medical Center. Two cases deal with fire sprinklers being installed without a permit (Dr. Neubauer hired a sprinkler company in 2003) and three cases deal with an oxygen tank being replaced without a permit (Dr. Neubauer hired an architect and general contractor in 2004). ALL OF WHOM WERE PAID TO CORRECT THE VIOLATIONS and were all fired by Dr. Neubauer for lack of contractual agreements in 2005. (After this year and one half delay, a new general contractor and architect and sprinkler company were hired.) Let it be known that ALL of the above construction issues were performed by "reputable" companies, whom were hired in good faith by Dr. Neubauer, in an effort to maintain a safe environment for his building and his business. All companies took the money for their work, but unbeknownst to Dr. Neubauer, neither company obtained permits for the work that they performed. The vendor, Tri-Gas told Dr. Neubauer that they did not need a permit to change out the oxygen tank since it was a replacement tank of the same size and use. Attached please find opinions stated by the new contractors who eventually completed and CO'ed the projects, A & A Construction, Caribbean Fire and Dixie Plumbing.

Fire Sprinklers

In 2003, Dr. Neubauer hires a fire sprinkler company to install sprinklers on the first floor of his building. The contractor is paid 75% of the contract price, applies for the permit, but never obtains it. Dr. Neubauer does everything in his power to obtain the permit and complete the work by hiring attorneys and filing a DBPR Complaint, all to no avail.

Dr. Neubauer hires another fire sprinkler contractor who is able to get the permit on 07/01/05, finish the work and obtain a final inspection. It took time because inspections failed since the first contractor's plans did not match up to the work done by the second contractor. Plans had to be revised. On 11/17/06, the final fire inspection is approved.

The chronology shows that Dr. Neubauer and his staff, his attorneys and the contractor kept the Town constantly abreast of the progress at all times. The Notices of Violation said to obtain a plumbing permit for the installation of the sprinklers and obtain an electrical permit for the installation of the sprinklers. The Notice **DID NOT SAY "COMPLETE THE WORK AND OBTAIN ALL INSPECTIONS"**.

On 01/18/05, the magistrate said to obtain the permit, complete the work and obtain all inspections in 120 days. This is an IMPOSSIBLE TASK given the fact that:

(1) The first contractor would not or could not obtain the permit and Dr. Neubauer had a contract with them; and

(2) The amount of time to obtain the permit and complete the work was controlled by the building officials in plan review and the contractors doing the work and obtaining the inspections.

The magistrate went beyond what the Town as asking for. THE TOWN WAS ASKING FOR "OBTAIN A PERMIT ONLY".

At all times, the building was never "red tagged" and never found to be unsafe.

When attorney Kenneth Hemmerle met with Brad Townsend in May/June, 006, he said the Town only seeks to recover it administrative costs once the owner comes into compliance and is only interested in compliance, not fines. He estimated them to be around $4,000.00 to $6,000.00. NOTE: There is a note in the Town's file for one of the cases to schedule in April, 2011 to dismiss. This was confirmed by Mr. Bowman, and the reason is that an electrical permit for the sprinklers was not required. (We have a letter to that effect from the Fire Sprinkler Company.)

On January 30, 006, a hearing was held by the magistrate to impose the fines and liens. This is where the propriety of the liens and fines were addressed.

Dr. Neubauer's prior attorney, Dan Taylor of Tripp Scott, put in his notice of appearance with the Town in May, 2005. He was in regular contact with Jeff Bowman and Kami Parker throughout 2005. There is a letter dated 12/01/05 where Mr. Taylor spoke with Mr. Bowman on 11/30/05 and they agreed not to go in front of the magistrate until the work on the fire sprinklers was complete.

Mr. Bowman sends out a Notice on January 5, 2006 to Dr. Neubauer' residence stating that the hearing in front of the magistrate is set for January 30, 006. The notice is not delivered to Dr. Neubauer by the U.S. Postal Service until February 21, 2006, THREE WEEKS AFTER THE HEARING where fines were imposed. NO NOTICE was provided to Dan Taylor – the statute requires this. NO NOTICE was delivered to a person in charge at the building – the statute requires this. Dr. Neubauer did not have any opportunity to present any witnesses or evidence as the Notice provided for because NO NOTICE WAS PROVIDED. In prior hearings before the magistrate, Dr. Neubauer was represented by attorneys, contractors and an architect. Certainly, Mr. Bowman or the magistrate could have inquired about whether notice had be provided before conducting the hearing, namely; Did the attorney get notice? Did the owner get notice? Was notice delivered to

the building to a person in charge? Did they not think it strange that NOBODY showed up, whereupon up until this time Dr. Neubauer always showed up and with an entourage of professionals of interest to the issues at hand AND totally out of character??

Oxygen Tank

All of the Notice issues/problems are pretty much the same because the Town has lumped all of the cases together, only with the tank, there were multiple hold-ups from the County and Town inspectors and multiple "mid-stream" changes from the County and the Town inspectors.

Similarly, a contractor/vendor changed out and existing tank that the vendor owned without a permit. The scope of the project was much larger than simply obtaining an "after the fact" permit and having the inspections.

Major construction was necessary, multiple tests were required and significant amounts of time and money were consumed with meetings with the building officials, changes in the plans from the County's plan review process and throughout the process, as each new inspector that became involved added new requirements that the prior inspectors did not require, causing additional new architectural plans, additional meetings with the building department, additional time and additional money. Yet despite all of the struggles, battles, time and money, Ocean Medical Center has consistently continued to "do the right thing" and meet all of the challenges thrown at them by the County and the Town, in an effort to be in compliance with the County and the Town codes and ordinances.

TRIPP SCOTT

Attorneys At Law
A Professional Association

DANIEL E. TAYLOR
(954) 760-4926
email: det@trippscott.com

May 13, 2005

VIA TELECOPIER: 954-776-1857
Lauderdale by-the-Sea
Zoning Code Compliance
Attn: Kami Parker
4501 Ocean Drive
Lauderdale-by-the-Sea, Florida 33308-3610

RE: Ocean Hyperbaric Center
Notice of Appearance
NOV Cases #04-2216,2217,2218,2219 and 2220

Dear Ms. Parker:

This letter is to serve as a notice of appearance by the law firm of Tripp Scott in the subject code violation matters concerning Ocean Hyperbaric Center. You and I have discussed the Special Master hearing scheduled for May 23, 2005 and I will contact you in the beginning of next week concerning that hearing.

Please call me if you have questions.

Sincerely,

Daniel E. Taylor
For the Firm

DET:kkb

338295v1 991857.0002

Exhibit A

UNITED STATES POSTAL SERVICE

Home | Help | Sign In

Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: 7005 0390 0004 9823 6978
Detailed Results:

- **Delivered, February 21, 2006, 8:40 am, POMPANO BEACH, FL 33060**
- **Notice Left, January 07, 2006, 1:12 pm, POMPANO BEACH, FL 33062**

Track & Confirm
Enter Label/Receipt Number.
Go >

< Back Return to USPS.com Home >

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard A. Neubaun
A Trust Richard A. Neubauer
Revocable Trust
Ocean Hyperbaric Surgical
1584 SE 19th Avenue
Lauderdale By The Sea FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
NOH. 04-2210, 04-2217, 04-2218, 04-2219, 04-2220
mailed 1/5/06

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 0390 0004 9823 6978

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Premier Accounts
Privacy Policy

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Neubauer
Revocable Trust
1584 SE 19th Avenue
Lauderdale by the Sea, FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) W Jones | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
Case NO: 04-2216, 04-2217, 04-2218, 04-2219, 04-2220
mailed 2-14-04

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 2570 0000 9026 5305

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Exhibit B

A&A Construction Co.

432 NE 26 ST

Wilton Manors, FL 33305

Lic. CBCO36329

Ph: 954-565-5740

Fax 954-533-4028

To whom it may concern:

Re: Ocean Hyperbaric/Ocean Medical 5/11/11

A&A involvement on this particular job started on 2006 and still on going,
Our involvement was to secure an after the fact permit to encase the new Matheson Tri-Gas tank that was change out without a permit.

My job to secure approved plans changed so many times during the permit process due to the building department comments.
It was easier to obtain permit for the first floor reconstruction than it was to get the 06 permit approved and finaled out.

We are currently working on the 2010 permit required by the building department before the city allowed us to secure the'09 building permit.

I believe the responsibility for the occurred delays on the '06 & '09 permits was not the fault of the owners but the never ending, changing requests of the building departments.

Gary Ansley
A & A Construction
Lic #: CBCO36329

CARIBBEAN FIRE & ASSOC. INC.
3858 SW 30th Ave, Suite 109
Hollywood, FL 33312
Toll Free: 1 800 624 2281
T: 954.581.9393
F: 954.581.2896
www.CaribbeanFire.com

April 19, 2011

Tex Janulis
Ocean Medical Center, L.L.C.
4001 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)
Permit No.: 05-05945

Dear Tex:

As you know we pulled the permit for the fire sprinklers at the above commercial building for the first floor on July 1, 2005. We did not pull an electrical permit for the installation of the fire sprinkler system because it was not required. Our work has passed inspection and approved by Broward County. You informed me that the Town is claiming $101,400 in fines for the above case. You further informed me that the Town of Lauderdale-By-The-Sea through its Code Compliance Officer, Jeff Bowman, stated that it was the Town's intent to dismiss the above case because an electrical permit was not required for the installation of the fire sprinkler system. I would agree with the Town in this regard because it is not necessary for me to pull an electrical permit on any of my fire sprinkler projects to be finaled.

Very truly yours,

Sam Santiago
President

SS

DIXIE PLUMBING SERVICE, INC.

LIC. CFC-019074 TAX ID 59-1375979
1900 N. Andrews Avenue Extension, Suite B
Pompano Beach, Fl 33069
Telephone: 954 972-9595 Facsimile: 954 972-3380
E-Mail patty@dixieplumbing.com

To Whom it may concern:

Re: Ocean Hyperbaric / Ocean Medical
05-10-11

As it may be, I have never been involved in a job where the "approved plan" changed so many times during the permit process, due to building department comments. Without recreating the specific dates and times, we started this particular job in 2006 and finished in December of 2010. Our involvement was to assist in securing and "after the fact" permit for the replacement of a liquid oxygen tank that was changed out by Matheson Tri-Gas. We were not involved in the " change-out" but asked if we could get the tank change-out permitted. Notwithstanding destruction of property from the oxygen chamber fire, it was easier to obtain a permit for the first floor reconstruction than it was to get the original "06" permit approved and finaled out. The responsibility for the incurred delays, in my opinion, was not the fault of the owner, but of the ever changing request of the building department.

Albert C. Korelishn
CFC 019074
Dixie plumbing Service, Inc.
Member of the Broward County Board of Rules an Appeals from 1980 to 2010
Member of the Construction Industry Licensing Board since 2010 to present

Subsection B & C

CHRONOLOGY

Case No.: 04-2216 (Electrical Permit Required for Installation of new oxygen tank)
Case No.: 04-2217 (Plumbing Permit Required for Installation of new oxygen tank)
Case No.: 04-2218 (Building Permit Required for Installation of new oxygen tank)

1983

Records Dating Back to 1983 show that Oxygen Tank is legally on the Property as of 1983

2/18/83 – Permit no. 383 is issued by the Town of Lauderdale By-The-Sea to remove an existing oxygen tank, install a new one and cut roof opening to leave open area.

2002

6/1/02 – Matheson Tri-Gas and Ocean Hyperbaric Center, Inc. sign a product supply agreement. Under this agreement Matheson Tri-Gas owns and maintains the 1,500 gallon oxygen tank and equipment on the property and leases the system to Ocean Hyperbaric Center, Inc. Under the agreement Matheson Tri-Gas supplies liquid oxygen to Ocean Hyperbaric Center, Inc. Ocean Hyperbaric Center, Inc. pays Matheson Tri-Gas a monthly lease fee for the tank and the equipment and a price per cubic foot for the liquid oxygen which Matheson Tri-Gas delivers.

2004

6/17/04 – On June 17, 2004 there existed an MVE 1500 gallon oxygen tank (NB 5665). Matheson Tri-Gas determined that it was necessary to change out the existing 1,500 gallon oxygen tank which they owned and replace it with a new Taylor Wharton 1,500 gallon oxygen tank (NB 52912.2800). Matheson Tri-Gas had the right under the contract to change out the equipment if they determined that it was necessary. Prior to removing the existing tank and replacing it with a new one a representative with Dr. Neubauer's office (Tex Janulis) stated to Ken Ward of Matheson Tri-Gas that a permit needed to be obtained from the Town of Lauderdale-By-The-Sea.

6/17/04 – On June 17, 2004 personnel from Matheson Tri-Gas (Tri-Gas) changed out the existing oxygen tank. During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). **The Fire Department investigated the incident and finding that there was no hazard or danger allowed Tri-Gas to continue with their change out of the tank. Dr. Neubauer did not know that TriGas would fail to follow the code and pull the necessary building permits to change out the existing tank.**

6/18/04 – **Medical Gas Maintenance & Certification, Inc., 12245 62nd Street N., Suite 304, Largo, FL 33773 performs an inspection and test of the tank and certifies that the installation of the liquid tank and reserve manifold are up to NFPA 99c Code.** All samples taken were clean and particulate free.

9/10/04 – Vince Reilly, Administrative Director with Dr. Neubauer's office writes a letter to Ken Ward with Matheson Tri-Gas stating that Broward County had issued a Notice of Violation. **He states in his letter, "as requested by Broward County" you must obtain a building permit. He further states that "our business may be shut down unless the situation is rectified."**

10/8/04 – Dr. Neubauer's attorney, Jacob Arpreister sends a letter to Joe Fahey, Assistant Chief Code Compliance Officer with Broward County Building Code Services. In his letter Mr. Armpreister confirms that Broward County will not take action to shut down Dr. Neubauer's operation providing meaningful progress is made toward issuance of the appropriate permits and all necessary inspections are affirmative.

11/4/04 – Tri-Gas has Albert C. Korelishn of Dixie Plumbing Service, Inc., 1900 N. Andrews Avenue Ext., Suite B, Pompano Beach, FL 33069, contact Dr. Neubauer to pull the after-the-fact permit.

11/4/04 – A meeting takes place between Albert Korelishn, Joe Fahey, Assistant Chief Code Compliance Officer with Broward County and Tex Janulis, a representative for Dr. Neubauer.

11/4/04 – Joe Fahey, Assistant Chief Code Compliance Officer with Broward County writes a letter to Albert Korelishn of Dixie Plumbing Service, Inc. stating that the med gas area around the oxygen tank requires a one hour enclosure. He states that the source valve location must be shown on the piping diagram. He continues and states that since the system has an automatic change over and reserve supply, an alarm is required. He states that this is to comply with Level 1 requirements. Electrical work is required. Mr. Fahey states that a complete piping diagram showing valves, stub outs, alarm sensors, regulators and gauges is required. He states it necessary to show point of discharge for regulators. He states it is necessary to show other points of use for O2, if any. He further stated that NFPA 50 – Bulk O2 requires that the area under the supply vehicles must be non-combustible. He stated that the overhead electrical wires are a concern, however, if they are judged to be dangerous then they can be relocated. Mr. Fahey noted that the fill and fill vent are to be 50' from the patients. He also noted that an approved manifold for cylinder gases is also required.

11/11/04 – Dr. Neubauer signs an agreement with Integrated Design Ideas & Services, Inc. to draft a set of plans of the property – existing conditions, consisting of a site plan, first, second and third floor plans for a fee of $1,500.00.

11/30/04 – Plans finished by Integrated Design Ideas & Services, Inc.

12/2/04 – Notices of Violation are issued by the Town in Case No.: 04-2216 (Electrical Permit Required for Installation of new oxygen tank); Case No.: 04-2217 (Plumbing Permit Required for Installation of new oxygen tank); and Case No.: 04-2218 (Building Permit Required for Installation of new oxygen tank). Under each of these 3 Notices of Violation the corrective action is to obtain the electrical permit, the plumbing permit and the building permit and nothing more.

12/3/04 – Vince Reilly sends a fax to Dan McNeal of PVHO2 Systems, Inc. stating that Sheldon Frank of Electric Service, Inc. will contact him concerning the electrical work on the oxygen tank. He states that Tri-Gas says that Ocean Hyperbaric must address problems before they can rectify code violations.

12/16/04 – Roberto Valencia Architect, P.A. writes a letter to Kam Parker, Code Compliance Officer, stating that the owners of the building have retained their services to assist them with the existing code issues as set forth in the Notices of Violation dated 12/2/04. The architect requested a sufficient amount of time to review the existing conditions and pending violations. The architect requested 30 days to conduct their professional services and prepare a plan and a time schedule to resolve the code upgrade issues cited.

As a result of the Fire Department's investigation Ocean Medical was cited with code violations for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned and removing the old one.

2005

1/18/05 – A special magistrate hearing takes place on **Case No.: 04-2216 (Obtain electrical permit for installation of new oxygen tank and piping); Case No.: 04-2217 (Obtain plumbing permit for the installation of a new oxygen tank and piping); and Case No.: 04-2218 (Obtain building permit for the installation of a new oxygen tank and piping).** In the minutes of the hearing, Code Compliance Officer, Kam Parker, was present on behalf of the Town. Officer Parker stated that since the notice the Respondent (Dr. Neubauer) has been diligently trying to accomplish **achieving the permits. Officer Parker requested an extension of 90 days to accomplish achieving the permits. Officer Parker requested an extension of 90 days to complete the permitting,** a $150 administrative fee and $100 fine for each violation. Roberto Valencia, President of Roberto Valencia Architect, P.A. was present on behalf of Dr. Neubauer. Mr. Valencia stated to the special magistrate that currently documents are being prepared with a consulting engineer that will be submitted to the Town for the necessary permits for the completed installation of the oxygen tank. D. Neubauer is given 120 days to deal with permitting, completion of the work and inspection. The Special Master suggested that communication be maintained with the Code Officer as to the progress of the resolution of the issues and asked that Mr. Valencia relay this suggestion to the property owner.

2/9/05 – Tex Janulis, a representative of Dr. Neubauer, faxes to Fred Pearlman, Broward County inspector, copies of the minutes from the hearing before the special master dated January 18, 2005.

2/18/05 – Dr. Neubauer retains Tumin Engineering Company, P.O. Box 936585, Margate, Florida 33093, to perform a Code Compliance and Life Safety Evaluation report on the building.

2/28/05 – Vince Reilly meets with Tumin Engineering, Tex Janulis and Dr. Neubauer to discuss compliance with the code violations. Tumin Engineering will provide written recommendations.

3/1/05 – Vince Reilly speaks with SprinklerMatic about coming in to complete the work which had been started by Able Fire Sprinkler, Inc.

3/3/05 – Tumin Engineering provides written recommendations to Vince Reilly on the code compliance issues.

3/3/05 – On March 3, 2005 Tumin Engineering Company, P.O. Box 936585, Margate, Florida 33093 issues its Code Compliance and Life Safety Evaluation report on the building. 1.) Tumin reports that according to the oxygen vendor additional equipment is necessary for the system. Tumin reports that a mechanical engineer should be retained to verify the additional equipment and space. 2.) Tumin reports that the top portion of the enclosure is not considered a two-hour rated wall assembly and therefore needs to be reconstructed. Tumin reports that there is inadequate space on the site to relocate the tank in lieu of the protective enclosure. Tumin reports that an architect should design the enclosure. 3.) Tumin reports that the delivery area is required to be non-combustible and needs to be replaced with concrete. 4.) Tumin reports that the pressure relief device discharging piping outlets, filling and vent connections shall be located more than 50 feet from the building entrance.

3/7/05 – Attorney Armpreister contacts Able Fire Sprinkler, Inc. and Broward County Code compliance officer, Jim Fahey regarding the status of the permit.

3/18/05 – Vince Reilly sends an e-mail to Kami Parker at Lauderdale By The Sea advising that he has placed a call to John Burton regarding the designated response level for Ocean Medical Center. He asks Ms. Parker what entity designates the level and whether it can be arbitrated.

3/28/05 – A meeting is scheduled for March 31, 2005 at 1:00 p.m. with Able Fire Sprinkler, Wilson Hernandez, P.A. (architect), attorney Armpreister, Matheson Tri-Gas, Electrical Service, Inc., Tex Janulis and Vince Reilly.

4/23/05 – Ron Gettler, Medical Gas Specialist with Mercury Medical issues a temporary Certificate of Compliance stating that the medical gas piping system of Ocean Hyperbaric complies with the Code with respect to various sections of NFPA 99 (1999).

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr. Townsend with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean

hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $150,000.00 in costs to come into compliance.

4/12/05 – Attorney Armpreister states to Vince Reilly that he will send a letter to Broward County and Lauderdale By The Sea Code Compliance department requesting a 120-day extension due to the County's hold up with the permits.

4/27/05 – Atttorney Armpreister writes a letter to Kami Parker, Code Compliance Officer, stating that Ocean Hyperbaric continues to work toward the resolution of the code issues. He states that Broward County Building Code Services Division has not yet rendered a decision with regard to the application for permit regarding the fire sprinklers. He states that Able Fire Sprinkler had previously submitted an application for permit to the County for review. The County requested additional information and a further revised application package was submitted earlier this month. He states that upon receipt of the fire sprinkler permit from the County Ocean Hyperbaric is ready to commence work. He states that Ocean Hyperbaric has been diligently working toward resolution of the outstanding issues and is requesting an

additional 90 day extension beyond the 120-day deadline as the projects cannot be completed without County approval.

5/2/05 – Attorney Armpreister writes a letter to Kami Parker requesting a hearing before the special magistrate to request an extension of time within which to complete the necessary revisions required of Ocean Hyperbaric regarding the installation of the fire sprinklers and oxygen tank in all of the cases.

5/05 – Kami Parker writes a letter to Attorney Jacob Armpreister where she states that she does not feel that an extension of 90 days on top of the original 120 days is warranted. She states the compliance date will remain June 18, 2005. She states that Ocean Hyperbaric may request a hearing once all permits have been completed and inspected to mitigate the fine.

In May, 2005 Dr. Neubauer retained the services of attorney, Dan Taylor of Tripp Scott. This decision was due to the fact that Able Fire Sprinkler, Inc. still had not completed the work and obtained a final inspection.

5/11/05 – Town of Lauderdale By The Sea issues a notice of hearing/violation in Case Nos.: 04-2219 (Plumbing permit required for installation of fire sprinklers) and 04-2220 (Electrical permit required for installation of fire sprinklers). Hearing is set for May 23, 2005 at 3:00 p.m.

5/11/05 – Dan Taylor with Tripp Scott speaks with the code compliance department and assures them everything was being done to resolve the code issues.

5/13/05 – Attorney Dan Taylor writes a letter to Kami Parker. He states that the letter will serve as his Notice of Appearance in the code violation matters, Cases #04-2216, 2217, 2218, 2219 and 2220.

5/17/05 – Attorney Jacob Armpreister writes a letter to Jeff Bowman. He states that Dan Taylor of Tripp Scott will be handling the case and that this letter confirms that his firm is handling this matter.

5/17/05 – Attorney Dan Taylor writes a letter to Kami Parker requesting that the May 23, 2005 hearing before the special master be rescheduled until after June 18, 2005 and the permits are issued and work inspected. He states that the purpose of the hearing was to reconsider the imposition nof fines and request an extension of the time for compliance.

5/19/05 – Letter from Kami Parker stating that Ocean Hyperbaric Center was removed from the code board hearing scheduled for May 23, 2005.

5/20/05 – Attorney Dan Taylor writes a letter to Kami Parker. He encloses a letter from Quinn I. Miklos, R.A. of Miklos and Associates, P.A. Architects and Planners, the architect on the project. The architect estimates that his work will be completed within 10 days from May 23, 2005. He states that he spoke with John Wagner of Able Fire Sprinkler and he advises that he will resubmit the permit application this afternoon. He states that Ocean Hyperbaric is making every effort to correct the situation that its contractors created.

6/13/05 – Attorney Dan Taylor of Tripp Scott writes a letter to Kami Parker. The purpose of the letter was to update her on the progress made to comply with the Special Master order. He states that regarding the installation of the oxygen tank, Lee Development Construction and James E. Lee, the owner, are responsible for obtaining the building, electrical and plumbing permits. He states that Leo of I.T. Engineers, the structural engineer told him that the engineer's plans would be dropped off to Ocean Hyperbaric so that the plans could be submitted to the City's building department by June 14th. He stated that Robert Frank of Electrical Services, Inc. is working with Lee Development on the electrical permit as is Deveren Peterkin, another engineer consultant. The delay in getting the permit applications to the City is getting all of the contractors and consultants coordinated. The sprinklers system permits have more problematic as John Wagner of Able Fire Sprinkler did not do the things he was going to do and failed to obtain the permit. Mr. Taylor states in his letter that Ocean Hyperbaric expected TriGas to obtain a permit as well as the sprinkler contractor. He says it is costing Ocean Hyperbaric tens of thousands of dollars to correct a situation that it did not cause.

6/28/05 – Attorney Dan Taylor of Tripp Scott sends a letter to Kami Parker, of Zoning Code Compliance. He states that the contractors for the oxygen tank, Jimmy Lee and the sprinkler system, Caribbean, submitted the permit applications to the City. He stated he spoke with the contractors and the permits are still undergoing review. **He stated that contractors are calling regularly to check on the status of the permits but they have been told it could take 4-5 weeks. He states that the permit applications were submitted prior to the June 18th compliance date but that he is concerned that we can no longer control the time for review.**

7/25/05 – Broward County Plan Review (Plumbing) issues comments on the plumbing aspects of the plans – Permit No.: 05-07084.

7/29/05 – Julio C. Vida, P.E. of Leonardo Naveiras, Inc. sends invoice of $3,600.00 for preparation of permit drawings for the oxygen tank..

8/2/05 – Broward County Plan Review (Mechanical) issues comments on the mechanical aspects of the plans – Permit No.: 05-07084.

8/5/05 – Broward County Plan Review (Electrical) issues comments on the electrical aspects of the plans – Permit No.: 05-07084.

8/31/05 – Broward County Plan Review (Structural) issues comments on the structural aspects of the plans – Permit No.: 05-07084.

10/18/05 – Attorney Dan Taylor writes a letter to Kami Parker, Zoning Code Compliance. He updates her on the progress of construction to come into compliance with the notices of violation. He spoke with Caribbean Fire and the interior work has been completed but a new part for the exterior work is needed. The part was ordered and as soon as it is installed Caribbean will call for an inspection. **He states that the work by Lee Construction Development has run into obstacles as a result of the County's comments to the plans.** Tri-Gas's attempt to install the tank without the appropriate permits has resulted in what appears to be the need to completely renovate the oxygen portion of the facility. **He states that since the sprinkler notices of violation will be resolved before the oxygen tank he states that it**

is advisable to address them separately. He states that he will contact her in order to schedule a hearing before the special master.

12/1/05 – Attorney Dan Taylor writes a letter to Jeff Bowman confirming their telephone conference on November 30, 2005. Dan Taylor had spoken with Caribbean Fire and was told the installation was finished, most of the leaks in the previously installed sprinkler lines had been repaired. He was told as soon as the leaks are fixed Caribbean Fire will call for an inspection. Mr. Taylor states that he agrees with Mr. Bowman to go before the special magistrate as soon as the matter is finished. Mr. Taylor states in his letter that Jimmy Lee at Lee Construction is handling the oxygen tank and the work has become more complicated. He states that it is no longer a matter of obtaining an after-the-fact building and plumbing permit, completing the work and passing a final inspection. He states that after going through plan review at the county it is clear that the present oxygen pad location requires major renovation or replacement and therefore a whole new set of plans may be necessary and if that is the case he will request a meeting to show staff the proposed plan prior to coming in for approvals. He should know within the next couple of weeks.

2006

1/30/06 – The Town holds a hearing before the special magistrate on January 30, 2006 at 2:30 p.m. in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220 and issues an Order Imposing Fine/Certification of Lien. NO NOTICE OF THIS HEARING WAS PROVIDED TO DR. NEAUBAUER'S ATTORNEY, DAN TAYLOR OR TO DR. NEUBAUER prior to the date of the hearing. The Notice of Hearing was not delivered to Dr. Neubauer until February 21, 2006, some 3 weeks after the January 30, 2006 hearing. In the Notice of Hearing it states that any request for continuance may be made in writing to the Code Compliance Officer within 10 days. The Notice of Hearing states that each party has the right to call and examine witnesses. It states that any party represented by counsel must file a Notice of Appearance at least 5 days before the hearing date with the Town. It states that if any person desires to appeal any decision regarding any matter considered at the hearing that the person will need a record of the proceedings and that any appeal must be made within 30 days. NO NOTICE OF THE JANUARY 30, 2006 HEARING WAS LEFT WITH THE MANAGER OR OTHER PERSON IN CHARGE AT THE BUILDING LOCATED AT 4001 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA AS REQUIRED BY SECTION 162.12 (1) (d) FLA. STAT. As a result of the Town providing no notice of the January 30, 2006 hearing to attorney Dan Taylor, and because no notice of the hearing was left with a manager or other person in charge at the commercial premises and because Dr. Neubauer did not receive the notice until February 21, 2006 the property owner did not attend the January 30, 2006 hearing and was therefore denied procedural due process of law.

3/25/06 – Dr. Neubauer states to Vince Reilly, Jimmy Lee and Quinn Miklos that he is not in favor of moving the tank enclosure because Town officials state that no permit ever existed which was not correct and he requests that William Tex Janulis take over management of the project.

3/28/06 – Dr. Neubauer authorizes Tex Janulis to review all of the records with respect to the Building at the Town of Lauderdale-By-The-Sea and Broward County.

4/11/06 – Attorney Ken Hemmerle meets with Tex Janulis to go over issues relating to the fines and liens pertaining to the installation of an oxygen tank without a building permit.

5/19/06 – Attorneys Ken Hemmerle and Richard McCusker meet with county building official regarding the code violations.

5/23/06 – Ken Hemmerle speaks with David Burgueno at the County.

5/26/06 Ken Hemmerle and Richard McCusker meet with Bradford Townsend, the Planning and Zoning Director with the Town of Lauderdale By The Sea to discuss the liens and the oxygen tank. It is explained to Mr. Townsend that the 1,500 gallon oxygen tank which was installed in June, 2004 was a change out of a previously existing 1,500 gallon oxygen tank which had been there for years. It was also explained to Mr. Townsend that a building permit had been obtained back in 1983 (over 20 years prior) for the oxygen tank and the structure housing it. Mr. Townsend explained that he required the concrete slab which the tank sat on tested to be sure that the slab was of sufficient strength to hold the tank. He also stated that he required the soil underneath the concrete slab tested to be sure that the soil could hold the slab and the 1,500 gallon oxygen tank resting on the slab. Mr. Townsend also stated to Ken Hemmerle and Richard McCusker that once the tests were completed and the after-the-fact permit issued for the tank the Town would resolve the liens for the Town's administrative costs which he estimated to be between $4,000 and $6,000.

6/2/06 – Ken Hemmerle speaks with an attorney for Matheson TriGas, the owner of the oxygen tank regarding weights and mechanical drawings for the oxygen tank.

6/6/06 – Ken Hemmerle speaks with an engineering firm – Engineering & Inspections Unlimited in Fort Lauderdale about x-rays of the slab.

6/6/06 – Ken Hemmerle speaks with Robert Schuler of Miami regarding x-rays of the slab and the cost.

6/12/06 – Ken Hemmerle speaks with engineer, Fitz Harris about x-ray machine.

7/11/06 – Ken Hemmerle confers with Tex Janulis on the soil and concrete slab tests.

7/12/06 – Fitz A. Harris, P.E. Sructural Engineer agrees to provide structural engineering services consisting of inspection of the existing structure to determine member sizes and amounts of reinforcements utilized for the support slab and enclosure of the oxygen tank, evaluation of soil and concrete tests, structural engineering drawings showing details of the existing structure and modifications to be carried out, special inspection of the reinforced masonry construction.

7/31/06 – Nutting Engineers of Florida, Inc. cut and test concrete cores of slab upon which oxygen tank sits at a cost of $75.00.

8/8/06 – Ken Hemmerle speaks with Broward County Code Enforcement regarding special/independent inspections.

8/23/06 – Ken Hemmerle and Richard McCusker meet with Tex Janulis regarding the plans prepared by engineer, Fitz Harris.

8/24/06 – Ken Hemmerle has a telephone conference with Brad Townsend from Lauderdale By The Sea and sets up a meeting.

8/25/06 – Ken Hemmerle and Richard McCusker meet with Brad Townsend and go over with him the results of the slab and soil tests.

9/5/06 – Ken Hemmerle has a telephone conference with Brad Townsend from Lauderdale By The Sea.

9/6/06 – Ken Hemmerle has a telephone conference with Marge at Lauderdale By The Sea and a telephone conference with Sara Jean at Broward County regarding the old permit number.

9/6/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos, Tex Janulis and engineer, Fitz Harris regarding comments from the County Plan review under the permit application for the tank from 2005.

10/6/06 – Ken Hemmerle has a meeting with Tex Janulis regarding the plumber and the plumbing plans for the tank.

10/10/06 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing Service, Inc., the plumbing contractor who will pull the after the fact permit for the oxygen tank. Ken Hemmerle speaks to him about the fact that the project is a repair project of an existing facility.

10/13/06 – Ken Hemmerle meets with Tex Janulis, Robert Frank, the electrical contractor and Albert Korelishn, the plumbing contractor regarding the plumbing diagrams.

10/18/06 – Ken Hemmerle has a telephone conference with Albert Korelishn and Tex Janulis about the meeting set for Tuesday.

10/19/06 – Ken Hemmerle has a telephone conference with Albert Korelishn.

10/19/06 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas regarding the meeting set for October 24, 2006 which will consist of a discussion of the oxygen tank and the enclosure meeting building code requirements

10/23/06 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas.

10/24/06 – Ken Hemmerle meets with Tex Janulis, Albert Korelishn from Dixie Plumbing, David Henry and Joe Fahey from Broward County regarding the oxygen tank, piping and the structure meeting the building code requirements.

10/27/06 – Ken Hemmerle has a conference with Tex Janulis and structural engineer, Fitz Harris.

11/8/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris.

11/8/06 – Ken Hemmerle has a telephone conference with Albert Korelishn from Dixie Plumbing regarding the status of completing the plumbing plans for the oxygen tank.

11/9/06 – Ken Hemmerle has a conference with Tex Janulis regarding progress on the plans and drawings for the oxygen tank and enclosure.

11/13/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris and a telephone conference with Albert Korelishn from Dixie Plumbing.

11/27/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos about the drawings for the tank.

11/28/06 – Ken Hemmerle travels to architect, Quinn Miklos' office in Boca Raton to meet and discuss the plans and drawings for the oxygen tank.

11/30/06 – Ken Hemmerle has a conference with structural engineer, Fitz Harris and Tex Janulis regarding the plans and drawings for the oxygen tank.

12/4/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the electrician's plans for the oxygen tank.

12/4/06 – Ken Hemmerle places a call to the electrician about his plans for the oxygen tank.

12/8/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos, a telephone conference with the electrician and a telephone conference with Leonardo Naveiras, Inc. the professional engineer responsible for preparing and sealing the electrical and gas drawings for the oxygen tank.

12/9/06 – Ken Hemmerle assembles the finished plans for pick up by Tex Janulis.

12/11/06 – Ken Hemmerle has a telephone conference with with Tex Janulis and Leonardo Naveiras, Inc. regarding the gas piping and electrical plans.

12/12/06 – Ken Hemmerle has a conference with Tex Janulis and the engineer at the Ocean Medical building.

12/12/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris about the plans for the enclosure of the oxygen tank and a telephone conference with Tex Janulis.

12/12/06 – Ken Hemmerle has a telephone conference with Albert Korelishn with Dixie Plumbing, a telephone conference with Sheldon Frank, one of the electricians from Electric Service Company, the electrical contractor and a conference with Tex Janulis all regarding the finalization of the plans and drawings for the structure around the tank, the plans for the gas piping and the plans for the electrical to submit to the Town for the building permit.

12/15/06 – Ken Hemmerle has a telephone conference with engineer, Darin Cudmore with Leonardo Naveiras, Inc. about the piping and electrical drawings.

12/18/06 – Ken Hemmerle has a conference with Tex Janulis to review the finished plans. Ken Hemmerle instructs his staff to set up a meeting at the Town of Lauderdale By The Sea.

12/20/06 – Ken Hemmerle has a telephone conference with Kami Parker at the Town of Lauderdale By The Sea regarding the plans.

12/20/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding submitting the plans for permit tomorrow 12/21/06.

12/22/06 – Ken Hemmerle travels to the Town of Lauderdale By The Sea to submit for a permit the structural, electrical and plumbing plans for the oxygen tank.

12/26/06 – Ken Hemmerle has a telephone conference with the Health Department and a telephone conference with the Agency for Health Care Administration regarding certain requirements for obtaining the permit.

12/27/06 – Ken Hemmerle has a conference with Albert Korelishn, with Dixie Plumbing, the plumbing contractor to sign the plumbing permit application for the oxygen tank.

12/27/06 – Ken Hemmerle has a conference with Robert Frank of Electric Service, electrical contractor to sign the electrical permit application for the oxygen tank.

12/27/06 – Ken Hemmerle has a conference with the Department of Environmental Protection regarding the approval of the plans for the oxygen tank to be submitted for issuance of the permit. Ken Hemmerle pays the Broward County Department of Planning a $35.00 fee for their review and approval of the plans.

12/28/06 – Ken Hemmerle has a telephone conference with the Health Department regarding certain requirements for permitting.

12/28/06 – Ken Hemmerle has a telephone conference with Medical Quality Assurance regarding the application for the permit for the oxygen tank.

12/28/06 – Ken Hemmerle has a telephone conference with Richard Parham at the Broward County Health Department.

12/28/06 – Ken Hemmerle has a telephone conference with Arlene Davis at ACHA, Agency for Health Care Administration.

12/28/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding an update as to the finalization of the package for permitting.

12/29/06 – Ken Hemmerle has a conference with the Town of Lauderdale By The Sea Building Department to submit the plans and applications for permit.

12/29/06 – Ken Hemmerle has a conference with Dr. Neubauer and Tex Janulis at the Town of Lauderdale By The Sea Building Department to submit the plans and applications for permit.

2007

1/15/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the status of the plans in plan review. The plans are in planning and zoning.

1/15/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/19/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/19/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/24/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/24/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/25/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/25/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/26/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea. Jim Bell states that it is OK to go with repair existing structure.

1/26/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea where Jim Bell states that it is OK to go with repair existing structure.

1/26/07 – Ken Hemmerle has a telephone conference with Albert Korelishn with Dixie Plumbing, the plumbing contractor, regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea where Jim Bell states that it is OK to go with repair existing structure.

1/29/07 – Ken Hemmerle has a telephone conference with Tex Janulis and a conference call with Albert Korelishn with Dixie Plumbing, the plumbing contractor.

2/1/07 – Ken Hemmerle has telephone conferences with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding alterations to expanding the existing oxygen tank structure to the south of the oxygen tank enclosure to house the vaporizers that are presently located in the oxygen tank enclosure.

2/2/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea regarding submitting plans to expand the oxygen tank structure to accommodate the vaporizers to the south of the current structure.

2/2/07 – Ken Hemmerle has a conference with Tex Janulis – go over the plans regarding an expanded structure to accommodate the vaporizers.

2/2/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding the dimensions of the shed which is adjacent to the oxygen tank structure which is to be removed and replaced with a concrete structure to house the vaporizers which are connected to the oxygen tank.

2/6/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, on the status of the plans depicting the location of the vaporizers to the south of the oxygen tank.

2/8/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding Albert Korelishn's telephone conference with David Henry of Matheson TriGas to the effect that the size of the shed to the south of the tank cannot be expanded.

2/9/07 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris about redoing the drawings so as to not expand the shed.

2/13/07 – Ken Hemmerle has conferences with structural engineer, Fitz Harris, Tex Janulis and Albert Korelishn regarding the drawings which Albert Korelishn prepared for the vaporizers which are to be located to the south of the oxygen tank.

2/16/07 – Ken Hemmerle has a telephone conference with Albert Korelishn about the reserve oxygen tanks.

2/17/07 – Ken Hemmerle has telephone conferences with Albert Korelishn and Tex Janulis – David Henry of Matheson TriGas states that the reserve tanks cannot go inside the building.

2/20/07 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas regarding the reserve tanks.

2/24/07 – Ken Hemmerle has a telephone conference with Tex Janulis – the client will go forward with the removal of the shed and expansion of the area necessary for the vaporizers.

3/2/07 – Ken Hemmerle has telephone conferences with structural engineer, Fitz Harris, Tex Janulis and Albert Korelishn about opening a new area just north of the oxygen tank structure to accommodate the reserve tanks.

3/2/07 – Ken Hemmerle places a call to the attorney for Matheson TriGas.

3/2/07 – Ken Hemmerle has a telephone conference with Albert Korelishn about the reserve oxygen tank bottles being placed on a shelf attached to the structure/building housing the oxygen tank.

3/5/07 – Ken Hemmerle has telephone conferences with Albert Korelishn, Tex Janulis and Jim Bell from Lauderdale By The Sea regarding the reserve portable oxygen tanks.

3/7/07 – Ken Hemmerle has a telephone conference with engineer Fitz Harris, and Tex Janulis about the portable reserve tanks being placed in an area just north of the enclosure housing the tank with a fence around the tanks.

3/19/07 – Ken Hemmerle has a telephone conference with attorney for Matheson TriGas about whether a portable oxygen system is required for this doctor's office.

3/27/07 – Ken Hemmerle has telephone conferences with attorney for Matheson TriGas, Darren Cudmore with engineer Leonardo Naveiras' office and Tex Janulis that Matheson TriGas stated that the reserve oxygen system is not required.

3/28/07 – Ken Hemmerle receives an e-mail from the attorney for Matheson TriGas and sends a reply e-mail regarding confirmation that portable reserve oxygen tanks are not required.

4/5/07 – Ken Hemmerle has a telephone conference with Jim Bell of Lauderdale By The Sea.

4/6/07 – Ken Hemmerle has a meeting at the Building Department of Lauderdale By The Sea and files the revised plans.

4/18/07 – Ken Hemmerle reviews an e-mail from Broward County Building Department regarding plan review comments to the plans. He forwards a copy of the e-mail to Tex Janulis. Ken Hemmerle has a conference with Tex Janulis about the County's comments on the plans and a telephone conference with Fitz Harris about the County's comments on the plans.

4/18/07 – Ken Hemmerle assembles the plans to be forwarded to Albert Korelishn and engineer Leonardo Naveiras for corrections based upon the plan review comments from Broward County.

5/3/07 – Ken Hemmerle has a conference with his staff about a telephone conference with Lauderdale By The Sea regarding the comments to the plans. Ken Hemmerle conferes with Tex Janulis about this.

5/7/07 – Ken Hemmerle has a conference with Tex Janulis about the plan review comments from Broward County.

5/7/07 – Ken Hemmerle has a telephone conference with engineer Leonardo Naveirs' office about the plan review comments from Broward County.

5/7/07 – Ken Hemmerle has a telephone conference with NFPA and conducts research online at NFPA.org.

5/21/07 – Ken Hemmerle has a telephone conference with Captain Nance with Broward Fire about a handicap parking space near the oxygen tank enclosure.

5/21/07 – Ken Hemmerle has a telephone conference with engineer Fitz Harris about removing (whiting out) the parking space on the plans.

8/14/07 – Ken Hemmerle has a conference with Tex Janulis about him getting the vaporizers installed, doing the plumbing work except connecting the electrical with no down time.

8/14/07 – Ken Hemmerle has a telephone conference with the attorney for Matheson TriGas and Tex Janulis.

8/22/07 - Ken Hemmerle sends an e-mail to the attorney for Matheson TriGas.

8/22/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding status of the project.

11/1/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding status of the project.

12/1/07 – Ken Hemmerle sends an e-mail to attorney for Matheson TriGas regarding manifold and flow switch.

12/11/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the report of the electrician. Ken Hemmerle reviews the fax and e-mails it to the attorney for Matheson TriGas.

2008

1/10/08 – Ken Hemmerle has a telephone conference with Tex Janulis about the portable oxygen reserve system.

1/10/08 – Ken Hemmerle has a telephone conference with engineer Leonardo Naveiras' office about the portable oxygen reserve system. Ken Hemmerle sends an e-mail to engineer Leonardo Naveiras' office.

1/19/08 – Ken Hemmerle receives and reviews an e-mail from engineer Leonardo Naveiras' office and sends an e-mail to the attorney for Matheson TriGas.

2/8/08 – Ken Hemmerle has a telephone conference with Albert Korelishn at Dixie Plumbing.

2/8/08 – Ken Hemmerle has telephone conferences with Tex Janulis regarding his telephone conference with Dave Henry at Matheson TriGas and Albert Korelishn at Dixie Plumbing.

3/3/08 – Ken Hemmerle receives and reviews e-mail from engineer, Leonardo Naveiras' office.

3/5/08 – Ken Hemmerle has a conference with Tex Janulis about permit reinstatement.

4/17/08 – Ken Hemmerle has a telephone conference with Tex Janulis and Vince Reilly about certification issues of Matheson TriGas.

5/5/08 – Ken Hemmerle has telephone conferences with Albert Korelishn and Tex Janulis regarding the meeting which is scheduled with the Chief Plumbing Inspector for Wednesday at 11:00 a.m.

5/7/08 – Ken Hemmerle attends a meeting with Albert Korelishn, the plumber, Tex Janulis, Robert Frank, the electrician and Jim Michaels, the plumbing inspector from Broward County.

6/12/08 – Ken Hemmerle has a telephone conference with Tex Janulis and sends an e-mail to engineer Leonardo Naveiras' office that the portable oxygen reserve system is not an issue.

6/12/08 – Ken Hemmerle has a telephone conference with Tex Janulis and sends an e-mail to engineer Leonardo Naveiras' office regarding the clean gas report. Ken Hemmerle instructs his staff to fax the clean gas report to Jim Michaels, the Chief Plumbing Inspector at Broward County.

7/9/08 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the status of plan changes and final inspection.

8/27/08 – Ken Hemmerle has a conference with Tex Janulis and Albert Korelishn. Ken Hemmerle places a call top Jim Michael, Chief Plumbing Inspector with Broward County.

8/28/08 – Ken Hemmerle reviews the file and has a conference with Tex Janulis and a telephone conference with Albert Korelishn with Dixie Plumbing.

8/29/08 – Ken Hemmerle has a telephone conference with Julio Bercenio, Chief Building Official for Town of Lauderdale-By-The-Sea regarding plan issues.

9/1/08 – Ken Hemmerle prepares an agenda for the meeting scheduled with the Town of Lauderdale By The Sea and Broward County building officials for tomorrow. E-mail the agenda to Tex Janulis.

9/2/08 – Ken Hemmerle attends meeting with the Town of Lauderdale By The Sea and Broward County building officials for tomorrow. Those in attendance are: Albert Korelishn, plumbing contractor, Tex Janulis, owner's representative, Robert Frank, electrical contractor, Steve Pilla, Broward County inspector, Jim Michaels, Broward County Inspector, Kami Parker, Code Officer with Town of Lauderdale By The Sea, Robert Nance with Broward County Fire Department and Shirleen Smith of the Broward County Fire Department.

9/3/08 Ken Hemmerle has a telephone conference with Albert Korelishn, review his notes from the meeting with the building officials. Ken Hemmerle e-mail the recap of the meeting to engineer Leonardo Naveiras' office, Albert Korelishn and Tex Janulis.

9/5/08 – Ken Hemmerle drafts a letter to Broward County and a letter for the Medical Director of Ocean Hyperbaric Neurologic Center regarding the monitoring of oxygen levels in the tank per the request of the Broward County Building Officials.

09/19/08 – Ken Hemmerle (KVH) forwarded a letter to the County in reference to re-instating the Permit.

09/23/08 – KVH spoke with Tex regarding the slab inspection. He also contacted Jim Michaels at Broward County regarding the same.

09/25/08 – KVH spoke with both Tex and Jim Michaels again. The permit was reinstated.

12/05/08 – KVH spoke with Tex regarding his conversation with Marco Perez at Broward County. Checked on the status of the plans from the architect.

12/09/08 – KVH went over the plans with Tex and Tex submitted the revised plans.

12/11/08 – KVH spoke with Tex and Diane about the electrical plans. Electrical plans were approved. He reviewed the plumbing comments and spoke with both Tex and Steve Pilla re the plumbing comments and the meeting.

2009

01/29/09 – KVH spoke with Tex re: status and payment of $1,900+ to the County.

03/02/09 – KVH spoke with both Tex and Al at Dixie Plumbing regarding the plans for the pipe on the north side of the tank.

03/04/09 – KVH spoke with Doug Mitchell at Tri-Gas re: fill pipe on north side. Doug will call Tex to review plans. KVH spoke with Tex re: same.

03/27/09 – KVH spoke with Tex re: tank construction issues.

04/06/09 – KVH spoke with Tex re: permit expiration issues.

04/16/09 – KVH spoke with Tex, Julio (County), Alex Stephenson (County) and Darren Cudmore (engineer) re: meeting on Monday.

04/17/09 – KVH spoke with Tex re: plumbing inspection today at 11:00 a.m. and invoice for the additional new engineering.

04/20/09 – All attended meeting at Town building department with building officials for 3 hours.

04/21/09 – KVH prepared form for extension of permit, took to OMC for signature, picked-up and delivers signed form to the Town building department and spoke with Julio re: same.

04/28/09 – KVH spoke with Al and Tex re: meeting with Dick Paske, Third Party Certifier. Emails Al, Bob and Tex re: Leo's revised plans and asked for their input.

05/04/09 – Conference at OMC with ALL building officials, ALL contractors, KVH and Tex re: status of tank issues.

05/06/09 - KVH spoke with Al, Julio, Steve Pilla and Tex re: tank issues.

05/11/09 – KVH spoke with Tex and Julio re: plumbing report to be filed and permit issued. KVH spoke with Tex and Al re: architect to do additional drawings. KVH spoke with Bob Frank and Tex re: Bob's Final electrical report.

05/15/09 – KVH spoke with Tex re: update on status of tank issues.

05/18/09 – KVH spoke with Dick Paske re: status of report.

05/20/09 – KVH spoke with Tex re: status, his conference with Leo Naveiras (engineer) re: finishing changes to plans based on 4/21/09 meeting the building officials.
Meeting of all – KVH, Tex, Al and Bob.

10/01/09 – KVH spoke with Dan O'Linn and Tex about the '06 permit.

10/05/09 – KVH spoke with Tex re: meeting with building official.

10/07/09 – KVH spoke with Dan O'Linn at the Building Department and advised him that the things requested to be done by the County were completed and that we should like for him to bless it and close out the '06 permit. Dan claimed he would like that as well and that he would review the file and get back to KVH tomorrow. KVH spoke with Tex re: this information.

10/09/09 – KVH spoke with Al at Dixie Plumbing and Tex re: meeting at 10:00 a.m. on Tuesday.

10/03/09 – KVH spoke with the Building Officials.

10/15/09 – KVH spoke with architect Steve Torp at KVH Carlson's. KVH spoke with Tex re: conversation with Steve re: Life Safety Engineer.

10/16/09 – KVH spoke with LSE, Ed Spahn. KVH spoke with Tex re: conversation with Ed and emailed all info to Ed, engineer Darren Cudmore and architect Steve Torp.

10/17/09 – KVH received emails from Cudmore (engineer) and Carlson (architect).

10/19/09 – KVH exchanged multiple emails from with LSE, Ed Spahn, architect KVH Carlson and engineer Darrin Cudmore re: meeting.

10/20/09 – Conference at OMC with LSE Ed Spahn, contractor Gary Ansley, engineer Darrin Cudmore, electrician Bob Frank, KVH, Tex and Al from Dixie Plumbing.

11/03/09 – KVH spoke to Darin Cudmore regarding the status of the LSE's report.

11/04/09 – KVH spoke with LSE Ed Spahn.

11/05/09 – KVH conferred with Al, Steve Torp and Dick Paske regarding the new comments from the building officials. KVH discussed issues with Tex re: same.

11/11/09 – KVH reviewed LSE's report and shared info with Tex and conferred with Ed for clarifications.

11/12/09 – KVH had a telephone conference with Tex re: status on report and other information from Tri-Gas, a telephone conference with architect Steve Torp and attorney for Tri-Gas, Ricky Ravine. KVH confirmed conversation with an email to Ricky Ravine.

11/17/09 – KVH had several telephone conferences with Tex re: report and status regarding questions to Tri-Gas. KVH responded to Leah's emails and had several telephone conferences with LSE Ed Spahn re: report.

11/18/09 – KVH had various, multiple telephone conferences and emails between Tex, Tri-Gas attorney Ravine and LSE Ed Spahn regarding revised LSE report. Report not complete as yet.

11/19/09 – KVH spoke with Tex re: revised LSE reports. KVH reviewed revised report, made comments and conferenced with LSE Ed Spahn. KVH spoke with architect Steve Torp and shared comments with Ed.

11/23/09 – KVH spoke with Tex re: revised LSE report is finalized and received. KVH reviewed the finalized report and made comments. KVH emailed attorney Rick Ravine wanting to know where all the Tri-Gas information we have been requesting for months.

11/24/09 – KVH spoke with Tex re: status report. KVH conferenced with LSE Ed Spahn re: comments to report, reviewed report again and call Ed again. KVH spoke with Tex re: same and left a message with the center to have Leah call.

11/25/09 – KVH contacted Tex re: any response from Tri-Gas. KVH called Tri-Gas attorney Rick Ravine again – Rick advised he is calling his client daily to get us the requested information. Confirmed conversation with an email to Rick.

11/30/09 – KVH sent a letter to the building Official. KVH spoke with Tex and Steve Thorp re: same. Additional phone conference with Steve Torp re: construction issues.

12/14/09 – KVH again emailed attorney for Tri-Gas trying to get the requested information for the permit.

12/15/09 – KVH conferred with Diane and called Dan O'Linn at the County. KVH informed Tex of the feedback from O'Linn. Dan had been out of town for 2 weeks – is taking the plans, letter, etc. home tonight and will he back to us on Thursday. Telephone conference with Tex re: review notes on permit.

12/17/09 – KVH spoke with Rick Ravine from Tri-Gas. Tri-Gas is willing to give us a letter but not from an engineer. KVH spoke with Diane re: Dan O'Linn meeting with his gas man at the County. He will get back with us on Friday or Monday. KVH conferred with Tex re: same and updates. KVH again spoke with Rick Ravine re: requested info from Tri-Gas.

12/21/09 – KVH had a telephone conference with Dan O'Linn from the County. Dan advised that he reviewed our materials and that he needed just a few clarifications from the LSE Ed Spahn. He said the LSE report was good. He also said he had a few questions for the County plumbing inspector and that he would call KVH tomorrow. HE CONFIRMED that he is not adding anything new to the mix. KVH informed Tex re: same.

12/22/09 – KVH had a telephone conference with Dan O'Linn. Everything is fine. He just has a couple of points that Ed Spahn needs to clarify and he will have it in writing hopefully tomorrow. He spent 2 hours with Steve Pilla and he just has to talk to Payne the Fire Inspector. KVH informed Tex of this information. KVH received an email from attorney for Tri-Gas. KVH emailed Steve Torp re: same. KVH informed Tex about the email from Tri-Gas attorney.

12/23/09 – KVH conferred with Tex about a letter from Tri-Gas regarding termination of their agreement and waiting for response from OMC engineer re: is information from Tri-Gas acceptable as to flow and size of tank change out. KVH had a telephone conference with Vince Riley at OMC re: letter from Tri-Gas terminating their 2002 agreement.

12/24/09 – KVH had a telephone conference with Dan O'Linn who advised that fire, structural and electrical were all ok. He just needs to speak with Pilla and Julio. Everything is minor. Just a couple of clarifications (again) from Ed Spahn. He did say we will have to re-route valve across the door. KVH informed Tex. KVH spoke with Steve Torp re: 1" line issue. Email to Rick Ravine, Tri-Gas attorney.

12/28/09 – KVH spoke with Tex. KVH emailed Dan O'Linn with a copy to Tex re: 12/24/09 conference with Dan.

12/29/09 – KVH spoke with Tex. KVH emailed Dan O'Linn, spoke with Ralph Gonzalez and Julio at the County and informed Tex of conversations. KVH reviewed Tri-Gas agreement and called Tex re: the cancellation issues.

12/30/09 – KVH conferenced with Tex re: permit issues and Tri-Gas issues. KVH contacted Mike Kitzinger with Roberts Oxygen. KVH emailed Dan O'Linn re: his telephone conferences with Ralph and Julio at the County.

2010

01/05/10 – KVH reviewed Tri-Gas letter re: pricing and spoke to Tex re: status. KVH called Dan O'Linn – no word yet on the letter that O'Linn was supposed to email.

01/06/10 – KVH had a telephone conference with Tex, spoke with Julio and emailed Dan O'Linn. Spoke with Tex again.

01/07/10 – KVH called Dan O'Linn and spoke with Tex re: comments and responses.

01/08/10 – KVH spoke with Tex re: '06 permit issues. KVH emailed Ed Span and Dan O'Linn. He emailed Rick Ravie re: letter of termination and adjustment of product pricing. Spoke with Tex again re: same.

01/09/10 – KVH exchanged emails with Dan O'Linn.

01/11/10 – KVH spoke with Ed Spahn about O'Linn's comments and reviewed comments. He emailed Al and Darin re: same. KVH spoke with Al re: meeting. He spoke with Tex and Ed. He exchanged emails with Dan and again spoke with Al re: inspections.

01/12/10 – KVH finalized the response to O'Linn's comments and emailed to Dan, Steve, Al and Ed. Spoke with Ed, Al and Patty at Dixie Plumbing re: inspection records. He attended the meeting at the Town with Dan O'Linn, Puablo, Steve Pilla, Tex, Gary Ansley, Steve Torp and Al for 2 ¾ hours.

01/16/10 – KVH emailed Tri-Gas's attorney re: manufacturer's tank specs.

01/18/10 – KVH exchanged emails with Jared at Tri-Gas re: tank specs and copied to Darrin and Al.

01/19/10 – KVH reviewed notes from the January 12, 2010 Town meeting and emailed O'Linn, Al and Darin. Spoke to Tex re: same. KVH received email from O'Linn and shared with Al and Darin. Spoke to Tex re: same.

01/26/10 – KVH spoke with Gary Ansley re: Dan O'Linn pushing Gary and shared via email to Darin and Al.

01/27/10 – KVH spoke with Darin.

01/29/10 – KVH sent a letter to Dan O'Linn and spoke with Darin re: plans revisions per County.

02/04/10 – KVH spoke with Steve Torp and Jennifer Loft at the Town re: comments. KVH exchanged emails with Dan O'Linn. KVH spoke with Steve Torp, Gary Ansley and Tex then emailed O'Linn re: comments.

02/05/10 – KVH spoke with Darin re: letter requested by building official for exterior door near the vaporizers.

02/08/10 – KVH spoke with Tex and Gary Ansley and emailed the "email trail" to Gary.

02/12/10 – KVH prepared the Permit Application for the exterior door for the '06 permit and a Renewal Permit Application for the '06 permit. KVH spoke with Tex re: permitting and application status and go over the emails exchanged with Dan O'Linn.

02/15/10 – KVH spoke with Tex. KVH met with Gary re: delivery of Application for Permit for door and Renewal/Extension of the '06 permit.

02/16/10 – KVH spoke with Leah re: status of the '06 permit. KVH spoke with Gary re: delivered applications to O'Linn for the door and extensions. KVH conversed and emailed extensively with Tex, Steve Torp and Dan O'Linn.

02/18/10 – KVH spoke to Tex and Gary re: status of '06 permits.

03/05/10 – KVH had a telephone conference with Tex re: building issues and review new comments. KVH emailed and called Jared Vise at Tri-Gas. KVH spoke with Tex re: same. KVH again spoke with Jared re: relief valves and reserve system and informed Tex and Al of same.

03/08/10 – KVH spoke with Tex about not hearing from Dan O'Linn and Jared Vise.

03/10/10 – KVH spoke with Tex and Gary about email and conference with Dan O'Linn.

03/11/10 – KVH emailed Jared Vise and spoke to Tex about it. KVH exchanged emails with attorney John Molnar of Tri-Gas and informed Tex. He copied the emails to Ed Spahn and Al.

03/15/10 – KVH exchanged email with Dan O'Linn and shared with Tex. KVH spoke with Ed Spahn re: amended letter/report concerning relief valves and shared with Tex.

03/16/10 – KVH spoke with Tex re: email to O'Linn. He revised email based on Tex's suggestions and sent to O'Linn. He emailed Darin re: relief valves and Tri-Gas's position on current location of relief valves. He emailed Ed Spahn re: valves and shared with Tex.

03/18/10 – KVH had numerous conferences with Tex re: emails, Spahn's letter and if we reached Darin. KVH talked to Ed Spahn and completed the letter re: valves.

03/19/10 – KVH spoke with Dan O'Linn and Dan said OK for Darin to redline plans to remove relief valve comments on plans and the door painting of area of fill valve is OK. KVH shared with Tex and emailed and spoke with Darin re: same.

03/20/10 – KVH spoke with Tex re: meeting with O'Linn on Monday.

03/23/10 – KVH shared with Tex email to Dan O'Linn re: engineer trying to check the plans re: relief valves and status on various emails including revision of plans by engineer.

03/24/10 – KVH spoke to Tex several times re: emails and letters exchanged with O'Linn and Darin.

04/12/10 – KVH had a telephone conference with Tex re: Steve Pilla and Jim Michaels showing up on the jobsite and Steve Pilla saying he IS NOT going to sign off on the '06 permit and Gary speaking with Dan O'Linn today who advised he will take care of it.

04/20/10 – KVH spoke with Tex re: update on the '06 permit.

04/21/10 – Attorney Dick McCusker researched statute of limitations case law and statues on code enforcement liens.

04/28/10 – KVH reviewed notes from conference with Tex and emailed Jared Vise at Tri-Gas re: pressurization of tank and certification. KVH conferred with Dick McCusker re: his review of legal research on code enforcement liens and statute of limitations on all liens by Town.

04/30/10 – KVH conferred with Tex re: emails to Jared at Tri-Gas and Tex's discussion with the third party verifier.

05/04/10 – KVH exchanged emails with Jared Vise at Tri-Gas re: certification of tank and pressurization. KVH spoke with both Tex and Al re: emails.

05/05/10 – KVH shared with Tex the status on finally hearing back from Tri-Gas's attorney Rick Ravine. KVH had a telephone conference with Rick about the certification. KVH called Tex about O'Linn's conference with Gary that all he needs is the letter from Tri-Gas that the tank is certified.

05/06/10 – KVH spoke with Gary re: the letter from Tri-Gas, he informed Tex and emailed the letter to O'Linn. He spoke with Al re: same. He prepared a letter to Tri-Gas's general counsel John Molnar but is holding off until he hears from O'Linn. KVH exchanged emails with O'Linn and shared with Tex re: the letter.

05/07/10 – KVH conferred with Tex re: emails to O'Linn and his conference with Al and Dick Paske re: certification of tank. KVH spoke with Dan O'Linn re: verifier on plans license has expired. Have verifier certify tank and Dan will call KVH on Monday. Shared with Tex.

05/11/10 – KVH spoke with Linn again re: verifier. Dixie Plumbing's verifier will certify the tank and Al will call for final inspection. Dan will give a TCO when the center is open, the oxygen tank is filled and a permanent CO is issued when the tank is filled. All was shared with Tex.

05/12/10 – KVH reviewed the report of medical gas expert, Dick Paske and spoke with him. KVH spoke with Tex re: same.

05/25/10 – KVH called Al re: tank inspection by verifier/certifier tomorrow at 11:00 a.m. and informed Tex. KVH spoke with Leah re: tank issues. KVH conferred with Tex re: tank issues and Dick Paske's report as well as tank testing/certification issues to close out the '06 permit.

06/07/10 – KVH spoke with Tex re: tank issues.

06/09/10 – KVH spoke with Leah re: Tri-Gas certification.

06/13/10 – KVH reviewed the contract and billing materials of architect re: tank.

06/14/10 – KVH talked to Leah re: architect billing and information.

06/16/10 – KVH conferred with Tex on recent tank certification and status.

06/17/10 – KVH spoke with Leah re: Tri-Gas contract and termination.

06/18/10 – KVH talked to Leah re: Tri-Gas issues.

06/21/10 – KVH had a telephone conference with attorney John Molnar of Tri-Gas re: certification of tank required by building officials and in formed Tex along with Al as to what is needed for the final inspection.

06/22/10 – KVH had a telephone conference with Leah re: his conversation with John Molnar. He reviewed an email from Leah as to what she wants from Tri-Gas. KVH composed an email to John Molnar and shared with Leah, Tex and Al and copied final to Leah and Tex.

06/24/10 – KVH reviewed email from Leah and emailed attorney Molnar at Tri-Gas re: any word?

06/25/10 – KVH emailed Molnar again and shared with Tex.

06/26/10 – KVH responded to Leah's emails re: Tri-Gas.

06/29/10 – KVH spoke with Leah re: Tri-Gas and the email from Tri-Gas to Leah re: attempt to terminate the agreement and Leah's response to them.

07/01/10 – KVH spoke with Leah re: any word from Tri-Gas, using portable units as an alternative and the meetings for next week. He emailed John Molnar and shared with Leah.

07/02/10 – KVH spoke with Bill Sauntry at Tri-Gas re: outstanding bill of $873.00.

07/12/10 – KVH conferred with Tex re: attempt to contact Dan O'Linn and left message as he was on vacation. He left a message with Dennis who was the alternate at County and shared with Tex.

07/15/10 – KVH reviewed Leah's letters to O'Linn re: portable oxygen units. KVH spoke with Tex re: attorney McCormick will be calling.

07/16/10 – KVH spoke to attorney Bill McCormick.

07/20/10 – KVH spoke to Kim at the Town re: mitigation of liens. He reviewed the mitigation application and emailed Kim re: questions.

07/21/10 – KVH conferred with attorney McCusker (Dick) re: liens.

07/30/10 – KVH met with Leah, Winnie and Tex re: Tri-Gas issues and shared with Dick.

08/02/10 – KVH reviewed Tri-Gas contract and shared with Tex and Dick.

08/03/10 – KVH spoke with Tex re: Tri-Gas and drafted an email to attorney Molnar.

08/04/10 – KVH conferred with Leah and Tex, completed email to Molnar and shared with Leah. He reviewed Molnar's email response re: Valdini letter. He spoke with Tex and Leah and emailed Molnar and copied Leah. Dick reviewed all documents and commented to KVH.

08/05/10 – Dick reviewed contract and emails and commented to KVH.

08/11/10 – Dick reviewed material and shared with KVH Tri-Gas status.

08/12/10 – Dick reviewed Tri-Gas material and conferred with KVH status.

08/13/10 – Dick researched gross negligence/punitive dames for Tri-Gas Complaint.

08/14/10 – Dick drafted additional counts for Complaint.

08/16/10 – Dick conferred with KVH re: Tri-Gas Complaint.

08/17/10 – KVH exchanged emails with Leah re: Tri-Gas and reviewed Leah's email re: change in the system. KVH conferred with Dick and emailed Leah re: change in oxygen system.

08/19/10 – KVH conferred with Dick and Tex re: tank issues, contract, Complaint and third party supplier.

08/24/10 – KVH drafted and revised the Tri-Gas Complaint. Dick spoke with KVH re: count of the Complaint.

08/25/10 – KVH continued drafting Complaint and conferred with Dick re: Causes of Action and theories, revisions, negligence counts and estoppel/statute of limitations. Revision 4 of draft.

09/02/10 – KVH completed the letter/package to Town re: relief from Liens, conferred with Dick and delivered package to the Town Building Department.

09/10/10 – KVH reviewed email/letter from Diane and emailed Diane revised letter to the Town.

09/15/10 – KVH spoke with Leah re: status on lien clearances. Dick and KVH conferred and reviewed email from attorney Andrew Stone (Stone) re: liens.

09/17/10 – Dick spoke with KVH re: removal to Federal Court and reviewed case law.

09/20/10 – KVH reviewed the Answer and Affirmative Defenses of Tri-Gas. KVH spoke with Tex and Leah re: status. KVH spoke with Leah re: suppliers being interfered with by Tri-Gas and informed Gary Ansley of the same. Dick reviewed Tri-Gas Notice of Removal and Declaration, removal requirements, Answer and Affirmative Defenses and research remand law.

09/21/10 – Dick continued reviewing case law and removal/remand.

09/22/10 – Dick reviewed Court Practices Notice.

09/23/10 – Dick spoke with KVH re: indemnity agreements and disconnection of vaporizer. Dick reviewed email that KVH sent to Stone re: Town agenda re: liens. KVH conferred with Tex re: release and indemnity agreement of subcontractors and shared with Al and Leah and emailed draft revision to Hold Harmless Agreement to Leah.

09/27/10 – Dick reviewed Tri-Gas scheduling order and conferred with KVH. KVH spoke with Kim Williams at the Town re: liens/status on getting on commission agenda. Shared results with Tex.

09/30/10 – Dick researched code violations and property liens.

10/01/10 – KVH spoke with Assistant Town Manager, Bud Bentley (Bud) re: liens. KVH spoke with Vince Riley and Dick re: lien issues. Attorney Laura Morgan reviewed liens and consulted with KVH.

10/02/10 - KVH conferred with Dick re: lien issues, strategy, case law and legal research.

10/04/10 – KVH conferred with Dick and Mike Dolan at Chicago Title re: liens. KVH called attorney Sharon Miller at the City of Fort Lauderdale. KVH spoke with Vince advising him of the telephone conferences with the Town and the Title Company and the various options. Vince says to offer them $25,000.00. Dick reviewed an email from attorney Brian Hole (Brian) re: conference call and Notice of Jury Trial Demand.

10/05/10 – KVH conferred with Dick and Tex re: Federal Tri-Gas case in preparation for conference call with opposing counsel and settlement issues. Conference with attorneys Jeff Davis (Jeff), Brian and Dick re: Federal case. KVH and Dick conferred re: Tri-Gas conference, review court order, conference with Tex and KVH, scheduling order, emails and mediation dates.

10/06/10 – KVH and Dick confer re: Tri-Gas case, strategy on remand, mediation and Striking of Defenses. Dick reviewed the proposed order, mediation, email to the judge, corporate disclosure statement and settlement outline from Jeff and discussed with KVH.

10/07/10 – KVH conferred with Dick and Tex re: attorney fee and Tri-Gas matter. Dick reviewed response to Jeff, settlement offer, removal cases and conferred with KVH.

10/11/10 – KVH did legal research in preparation for Motion to Strike and drafted Motion to Strike Tri-Gas's Affirmative Defenses and legal research. Dick researched remand case law and shared with KVH.

10/12/10 – KVH finished drafting Motion to Strike, share with Dick, finalize Motion and file with Federal Court. Dick researched deficient notice/remand in Federal Court, drafted Motion to Remand and conferred with KVH.

10/13/10 – Dick completed draft of Motion to Remand and shared with KVH.

10/14/10 – Dick reviewed Order on Motion to Strike.

10/15/10 – Dick Reviewed Pro Hac Vice Motion.

10/18/10 – KVH reviewed remand status report, Motion for Remand, shared with Dick and revised Motion for Remand. Dick reviewed same and conferred with KVH re: revisions and new citations.

10/19/10 – KVH revised Motion for Remand, conferred with Dick and filed Motion with Federal Court. KVH and Dick reviewed emails between KVH and Jeff and discussed same along with settlement issues.

10/20/10 – Dick researched Reply to Affirmative Defenses, Federal Rules and Federal Case Laws.

10/21/10 – KVH spoke to Tex re: city commissioner and status of Tri-Gas. KVH contacted the Florida Bar re: issue of contacting commission. He reviewed case law pertaining to communication with a member of a quasi-judicial body.

10/22/10 – KVH conferred with Tex and Leah re: damages – Tri-Gas. He reviewed Order from Federal Court and shared with Dick. Dick reviewed Order Granting Appearance, Order Requiring Filing re: jurisdiction and researched case law re: burden of proof.

10/23/10 – Dick reviewed cases and emailed KVH.

10/24/10 – Dick drafted Response to Court Order Filing.

10/25/10 – KVH spoke to Town Commissioner Chris Vincent re: agenda and summary of fines and liens and shared results with Tex. He reviewed Response to Court Order re: jurisdiction, shared with Dick and filed final Response with Federal Court.

11/05/10 – Dick reviewed Tri-Gas's Response to Motion to Remand, contract and researched measure of damages in Federal and State law and shared with KVH.

11/06/10 – Dick Researched procedure for Response to Motion for Remand, local rules, defendants case law and drafted Reply to Remand.

11/08/10 – KVH and Dick confer re: Response.

11/10/10 – KVH reviewed Response to Motion to Remand, draft of Reply to Response, revise Reply, shared with Dick and his revisions and filed with Federal Court.

11/16/10 – KVH conferred with Tex re: his contact with John Bowman at the Town re: getting on the agenda and new proposed resolution in the work where liens will be handled by Town staff.

11/24/10 – KVH reviewed Federal Court Order and shared with Dick. Dick reviewed the Order Denying Remand, researched appeal, case law, Federal rules and drafted memo. Dick conferred with Scott Ellison, Tri-Gas counsel re: discovery and reviewed faxed discovery from Tri-Gas.

11/29/10 – Dick reviewed scheduling order and research local rules re: discovery motions and conferred with KVH the status of new oxygen system.

12/01/10 – Dick reviewed Federal rules re: discovery and due dates, email to KVH re: portable system issues. Dick and KVH conferred re: status, strategy and progress.

12/02/10 - KVH spoke with Leah re: status of the Tri-Gas case settlement options, recent Order by Federal Court and discovery. Shared same with Dick. KVH spoke with

Tri-Gas attorney Jeff Davis. Dick and KVH conferred re same and system issues, damages calculation and Motion to Stay. Both conferred with Scott.

12/08/10 – KVH conference called Leah, Winnie, Tex, Dr. Daviglus and Dr. Rodas re: Tri-Gas case. Dick conferred re: Tri-Gas damages and meeting.

12/09/10 – Dick and KVH spoke about the Motion for Continuance and drafted an email to Scott.

12/10/10 – KVH and Dick prepared for the conference call with Scott. Both conferred with Scott re: the possibility of a Stipulation for Dismissal to re-file as an alternative to a continuance of the Federal case. KVH spoke with Leah re: Dismissal Without Prejudice as a solution, damages issues and speedy trial date base on Judge's scheduling Order and to her he was available for questions.

12/14/10 – KVH spoke to Tex re: Tri-Gas strategy of a Voluntary Dismissal Without Prejudice.

12/15/10 – KVH conference called Dr. Daviglus, Leah, Vince and Ginger. He reviewed law on dismissals and shared all with Dick. Dick researched Federal local rules on dismissal, costs and fees and shared with KVH.

12/16/10 – KVH spoke with Scott re: Continuance/Voluntary Dismissal without Prejudice in Tri-Gas case and shared with Dick the same.

12/17/10 – KVH did legal research to prepare Joint Stipulation for Voluntary Dismissal. KVH and Dick conferred in preparation for the conference call with Scott re: Voluntary Dismissal and parameters. KVH prepared draft of Agreement with Tri-Gas attorneys, shared with Dick and emailed to Scott the Joint stipulation for Dismissal and the Agreement. He revised the Agreement, sent to Scott and shared with Dick.

12/18/10 – Dick reviewed Pro Hac Vice (PHV) Motion re: Scott and share with KVH.

12/21/10 – KVH conferred with Dick re: Tri-Gas status and call to Scott. Dick reviewed posting of Denial of PHV Motion, email to Scott, conference with Scott, scheduling Order on Discovery Order on Vacating Denial PHV Order – granting and statute of limitations. Shared all with KVH.

12/23/10 – KVH had a conference call with Scott going over the Agreement. KVH revised Agreement. Dick reviewed the email and revised Agreement from Scott. Dick researched refilling issues, attorney fees, Rule 41 Fees Federal case law and Moreno orders and shared with KVH. KVH and Dick conferred with Scott, and revised Agreement and emailed to Scott.

2011

01/04/11 – KVH spoke with Scott, revised the Agreement and emailed to Scott. Several more conferences between KVH, Dick and Scott and revisions. KVH emailed final to Scott.

01/07/11 – Dick reviewed emailed signed Agreement from Scott.

01/11/11 – KVH spoke with Scott re: the Stipulation and Agreement. KVH spoke with Jeff Bowman at the Town re: status of resolution to have staff deal with fines/liens and agenda time frame. KVH shared with Tex and Dick

01/12/11 – KVH emailed signed Agreement to Scott and filed Joint Stipulation for Dismissal without Prejudice with Federal Court. Shared all with Dick.

01/14/11 – Dick reviewed Oder of Dismissal from Judge Moreno.

01/18/11 – KVH spoke with Leah and Leah said to Close out the Town liens before settling with Tri-Gas. KVH shared with Dick. KVH called Jeff Bowman.

01/19/11 – KVH spoke with Leah to explain the offer of $10,000.00 and that Jeff Bowman is putting us on agenda and will have a recommendation in 2 weeks. KVH spoke with Jeff Bowman and he is putting us on the February agenda and it will go before the city council without need for testimony, etc.

02/01/11 – KVH spoke with Jeff Bowman re: facts and issues in the case vis-á-vis and recommendation.

02/02/11 – KVH spoke with Jeff Bowman, Dick, Bud Bentley and Jeff again going over and reviewing liens, fines and Final Order. KVH contacted Jeff Bowman and Bud Bentley again re: the facts of the case, mitigation and listing. KVH spoke with Dr. Daviglus re: status of lien file. Dick conferred with KVH re: Town calculations of fines, Final Orders, permits and review of Notices and Orders.

02/03/11 – Dick researched validity of Certification of Lien, review of Broward County records of Liens and certification, Fl. Stat. 162.09 and Massey Notice and shared with KVH.

02/04/11 – KVH had multiple conferences with Dick and real estate attorney Laura Morgan re: the memo Attorney's Title Insurance to find re: liens and revised same. KVH reviewed Laura's memo to attorney's Title re: liens and made a revision, reviewed Dick's revisions and shared with all. Dick reviewed all documents.

02/07/011 – KVH reviewed opinion from the attorney's at Title Underwriter Counsel and shared with Dick. KVH spoke with Lori Cadarid at Chicago/Ticor/Fidelity.

02/08/11 – Dick spoke to KVH about a call to attorneys Title re: a lien problem.

02/10/11 – KVH contacted Lori at Chicago Title and emailed Lori. He spoke to Jeff Bowman and shared with Dick about code liens and strategy.

02/11/11 – KVH exchanged multiple emails with Ric Rivas, underwriting counsel at Chicago Title, Dan O'Linn, Jeff Bowman and Bud Bentley. KVH exchanged multiple phone calls with Bud Bentley, Jeff Bowman and Dick. Dick conferred with KVH conversations, Town strategy, notices, case law and Statutes.

02/12/11 – Dick drafted a memo re: Massey notice and liens.

12/14/11 – KVH exchanged emails and phone calls with Dick re: Massey argument for failure to provide notice of Lien to owner and list out arguments for the city attorney. Dick researched actual notice, due process, code statutes and drafted a memo.

02/15/11 – KVH prepared for and attended a meeting with Jeff Bowman, Kim Williams, Dan O'Linn, Steve Payne and Tex. He emailed Town attorney Susan Trevarthen. KVH conferred with Tex re: status on contact with Town attorney and points of the meeting this morning. KVH spoke with Town attorney and shared with Dick. Dick conferred with KVH re: Town meeting, arguments and chronology of work along with notice statutes, Town attorney's position and review of Town ordinances and code.

02/16/11 – KVH spoke with Tex re: status of discussion with Town attorney re: liens. He reviewed a memo from Dick re: Massey notice case law and conferred research under Chapter 163. Florida Statute. Dick researched recorded liens, subsequent purchaser, ordinances and public records. He drafted a memo for Town clerk and shared with KVH.

02/17/11 – KVH continued to draft memo to Town attorney and conferred with Dick re: same. KVH spoke with Tex re: emails from Dan Taylor. He exchanged emails with Town attorney and he shared with Tex. KVH spoke with Tex re: evidence he uncovered pertaining to liens, emails from Trip-Scott and attorney Armpreister and shared with Dick. KVH worked on email memo to Town attorney. Dick conferred with KVH re: emails from prior attorneys re: lien resolution. Reviewed correspondence with Town attorney and revise and exchanged emails with Town attorney.

02/18/11 – KVH spoke with Tex, emailed Jeff Bowman, worked on the memo to Town attorney and reviewed materials from Tex's records. KVH conferred with Dick re: law on Notice of Charges vis-à-vis Final Order of Magistrate. KVH spoke with Tex again and went over additional records pertaining to '06 permit. He prepared and email memo to Town attorney re: OMC coming into compliance when the permits were issued. KVH conferred with Dick and Tex re: memo to Town attorney. Dick researched beyond scope, notice and online Town archives re: minutes.

02/19/11 – KVH conferred with Tex and prepared chronology for cases for lien mitigation.

02/21/11 – KVH conferred with Tex and continued with chronology.

02/22/11 – KVH spoke with Tex re: chronology. Dick reviewed email KVH sent Town attorney re: violations.

02/23/11 – KVH spoke with Tex re: chronology and email to Jeff Bowman. KVH spoke with and emailed Jeff Bowman. Dick spoke with KVH re: same.

02/24/11 – KVH spoke to Bud Bentley re: he is in agreement on 20% of $8,600.00 fine amount and shared with Tex. KVH spoke with Laura re: same and estoppel letter. KVH emailed Bud Bentley and shared with Tex and Dick.

02/25/11 – KVH spoke with Tex and Dick re: conversation with Bud re: liens and status

02/28/11 – KVH conferred with Tex and Jeff Bowman. He emailed Jeff Bowman and Bud Bentley and reviewed Bud's reply and answered, and shared with Tex.

03/01/11 – KVH continued work on chronology. He conferred with Jeff Bowman re: status and Jeff is waiting to hear from Town attorney. Shared with Dick.

03/02/11 – KVH spoke with Jeff Bowman re: liens and public records requests for minutes and shared with Dick and Tex. KVH emailed Bowman. Dick conferred with KVH re: communications with the Town, attorney feedback, notice research and procedural due process along with memo and letters to Jeff and Bud.

03/03/11 – KVH spoke with Dick and Tex re: email from Bud Bentley. He drafted a letter to Jeff and Bud re: negotiations and shared with Dick and Tex. KVH and Dick reviewed and conferred re: the minutes for 1-18-05, 5-23-05 and 1-30-06.

03/04/11 – KVH spoke with Tex re: all findings.

03/07/11 – Multiple conversations between KVH, Dick, Chris Vincent, Jeff Bowman and Tex re: emails, attachment re: chronology and prior representations.

03/08/11 – KVH spoke with Tex and Dick re: status and results. Contact with Florida Bar Staff attorney re: only speaking with Town attorney.

03/09/11 – KVH spoke with Tex and Dick re: call to Chris Vincent. He shared with Tex contact with Town attorney and Dick's comments.

03/10/11 – KVH conferred with Town attorney. She claimed to respond tomorrow. Shared with Tex and Dick.

03/14/11 – KVH spoke with Chris Vincent and reviewed email memo from Town attorney. Shared with Tex and Dick.

03/15/11 – KVH conferred with Dick and Tex re: status and strategies. Dick researched case law re: memo, March agenda, email to Vincent and prior attorney's files.

03/16/11 – KVH called Chris and Jeff and conferred and email exchanges with Dick. He also spoke with Tex and Dan Taylor (prior attorney) re: case facts, involvement regarding liens and code violation hearings. He telephone conferenced Dr. Daviglus, Tex, Vince and Ginger re: status of lien mitigation process.

03/17/11 – KVH revised chronology and letters to Bud and Jeff and shared with Tex and Dick. He spoke with assistant Town attorney, Michele Vos.

03/21/11– Dick researched case law re: official authority, ultra vires, approval, ratification of Agreement and Town ordinances re: official authority.

03/22/11 – KVY conferred with Tex (update/status), Dick, (case law on estoppel issues) and Dan Taylor.

03/24/11 – KVH continued work on tank chronology. Multiple communications between Tex, Dick and Dan Taylor and research re: failure of Town to notice attorney for the January 30, 2006 hearing.

03/25/11 – KVH reviewed emails re: case law on lack of Notice of Hearing to attorney Dan Taylor and shared with Dick, Tex and Kim William.

03/26/11 – KVH shared with Dick case law on Lack of Notice, additional due process and emails.

03/28/11 – KVH reviewed files at Town Hall, check on certified copies at Town Hall and shared with Tex and Winnie. He continued research and contacted Tex and Dan Taylor. His contact with Jeff Bowman confirmed Town will dismiss Case No. 04-2220 and he sent an email confirmation. He shared with attorney Laura Morgan.

03/30/11 – KVH continued to work on chronology and shared with Dick. Dick researched dec action, attorney fees, slander of title action, quiet title, email from Bowman and shared with KVH. Multiple conversations and emails between KVH, Dick and Tex along with sharing the letter to Town attorney.

03/31/11 – KVH continued chronology and had multiple contacts between Tex, Bud, Jeff re: dismissal. Kim will return call on Monday with info as to dismissal. Dick continued research re: additional case law, arguments to Town attorney and developments for revision of letter to Town attorney.

Subsection D

Costs encountered by Ocean Medical Center - Oxygen Tank	
Vendor	Approximate Amount Paid
Nutting Engineering	$1,200.00
JT Electric	$10,500.00
Altron Electric	$9,500.00
Bob Frank Electric	$32,626.00
Dixie Plumbing	$42,580.00
Original Architect	$3,200.00
Navarius Architect / Engineer	$11,250.00
Architect Fitz Harris	$2,800.00
Architect Ken Carlson	$2,200.00
Med Gas Testing	$1,350.00
Life Safety Engineer	$2,000.00
A & A Construction	$78,650.00
Attorney Dan Taylor/Tripp Scott	$17,500.00
Attorney Armpreister	$8,900.00
Attorney Hemmerle	$190,000.00
Broward County Building Department	$8,500.00
Total Paid	$422,756.00

Exhibit 2

TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 776-0576
Fax: (954) 776-1857

L.2.A.
5/12/11

APPLICATION FOR RELIEF FROM CODE ENFORCEMENT FINES OR LIENS

* No application will be accepted or processed unless all violations on the property have been placed in compliance by Code Enforcement

Case # 04-2217

CASE # _____

TOWN OF LAUDERDALE-BY-THE-SEA vs. Richard Neubauer Richard A. Neubauer Revocable Trust
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Winnie I. Neubauer, Manager of Ocean Medical Center, L.L.C. (Owner of Property.)
(Person to attend Hearing)

ADDRESS OF APPLICANT: 4001 North Ocean Drive
(Full mailing address) Lauderdale-By-The-Sea, FL 33308

PHONE NUMBER: 954-771-4000

ADDRESS OF PROPERTY: 4001 North Ocean Drive
(Where violation(s) existed) Lauderdale-By-The-Sea, FL 33308

NATURE OF VIOLATION: Code Violations for failure of a VENDOR (Matheson Tri-Gas) to obtain a building permit before changing out an existing 1,500 gallon oxygen tank.

THIS PROPERTY CURRENTLY IS ☐ IS NOT ☒ (check one) INVOLVED IN LITIGATION

All Applications for Relief (where applicable) MUST have the following documentation provided as part of the Application to be reviewed:

N/A 1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
N/A 2. A copy of the Foreclosure Complaint;
3. A copy of the Foreclosure Order, with the recording date, book and page shown;
4. A copy of the Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. A copy of the Certification of Lien Order, with the recording date, book and page shown;
6. A copy of the new Certificate of Title, with the recording date, book and page shown;
7. A copy of the Town's Final Order of Imposition of Fine; and
8. A copy of the Claim of Lien(s) with the recording date, book and page shown.

Please provide a copy of these requirements with all Applications for Relief.

LAUDERDALE-BY-THE-SEA
RECEIVED
MAY 12 2011
DEVELOPMENT
SERVICES

FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

A. The nature and gravity of the violation(s);
B. Any actions you have taken to correct the violation(s);
C. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
D. Any actual costs you expended to cure the violation(s), if supported by documentation;
E. Any other prior or current violations committed on the subject property or upon any other property you own within the Town; and
F. Equitable considerations.

WHY RELIEF SHOULD BE GRANTED (This section must be completed and, at a minimum, should address the above factors): See Attached

(Attach additional pages if needed, along with any supporting documentation)

IF APPLICABLE:
Name Of Attorney/Representative: _____

Address: _____

Phone Number: _____

I CERTIFY THAT I am the current owner of the subject property or an Attorney for said owner, or that I am the legal representative for the property or otherwise authorized to act on behalf of the property owner in this matter.

Christine F. Neubauer 5/12/11
Signature of Applicant Date

(NOTE: Proof of such lawful authority or written authorization from the property owner must be provided by the applicant prior to this matter proceeding.)

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

May 11, 2011

Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Town of Lauderdale-By-The-Sea v. Richard Neubauer, et al
Case No.: 04-2217 (Oxygen Tank)

Dear Town of Lauderdale-By-The-Sea:

As you are aware, the Town of Lauderdale-By-The-Sea (Town) has informed Ocean Medical Center, LLC, a/k/a Neubauer Hyperbaric Neurologic Center, Inc. (OMC), that there are accumulated fines in the above referenced case. According to numerous conversations with representatives of the Town whom assured us that the Town was only interested in collecting administrative fees in the above referenced case, OMC is offering $5,000.00 to settle this case based upon the information provided in our second Application for Relief from Code Enforcement Fines or Liens and an explanatory letter from attorney Kenneth V. Hemmerle, II, Esq., dated September 2, 2010.

We would appreciate your prompt consideration to resolve this matter as it has been continuing on for years and has caused an extreme financial burden on OMC.

Sincerely,

Winnie Neubauer

Winnie Neubauer
Owner

TOWN OF LAUDERDALE BY THE SEA
CODE COMPLIANCE SPECIAL MASTER

RECEIVED
FEB 04 2005
BY: C. Lynch for CB/S

CASE NUMBER: 04-2217

TOWN OF LAUDERDALE BY THE SEA,

Petitioner

vs.

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 SE 19th Avenue
Lauderdale By The Sea, FL 33062,

Respondent

FINAL ORDER

HEARING DATE: 18th DAY OF JANUARY, 2005.

VIOLATION(S): CODE SECTION 24-5.148 (1)

An administrative hearing was held before the Special Master on January 18, 2005. Set out below are the findings of fact, conclusions of law and final order for the subject hearing.

FINDINGS OF FACT

The record indicates that the RESPONDENT owns certain real property located at 4001 Ocean Drive, Lauderdale By The Sea, Florida 33308 and more particularly described as follows:

Tax Folio Number (Property I.D.): 9318-04-075

At the hearing held on this matter on January 18, 2005 the PETITIONER Town presented testimony by Code Enforcement Officer Kami Parker, concerning her personal knowledge of the existence of the subject violation(s), and entered into record evidence of notice required under Chapter 162 Florida Statutes. Respondent, RICHARD A. NEUBAUER REVOCABLE TRUST was not present at the hearing.

CFN # 105798158, OR BK 41480 Page 1900, Page 1 of 4, Recorded 02/17/2006 at 10:31 AM, Broward County Commission, Deputy Clerk 2030

V

Please Return Recorded Document to:
Code Enforcement Division
Development Services Department
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

BEFORE THE SPECIAL MAGISTRATE
TOWN OF LAUDERDALE-BY-THE-SEA

ORDER IMPOSING FINE/CERTIFICATION OF LIEN

TOWN OF LAUDERDALE-BY-THE-SEA,

Petitioner

v.

Case No. 04-2217

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, FL 33062,

Respondent(s).
_____/

The above referenced case was heard on January 18, 2005. The Respondents were found in violation of the Town Code of Ordinances and given until May 18, 2005 to comply the violation. An Affidavit of Non-Compliance was issued on February 3, 2006.

The property located at 4001 Ocean Drive, Lauderdale-By-The-Sea, Florida, corresponding to Folio # 9318-04-0750, is still in violation of the Town's Code of Ordinances.

Therefore, pursuant to Section 162.09, Florida Statutes, the Special Magistrate certifies as follows:

1. The Order of January 18, 2005 required the Respondents to comply the violation by May 18, 2005, and if compliance was not met within the specified time frame, a fine of One Hundred and 00/100 Dollars ($100.00) per day, would commence and continue to accrue for each day thereafter that the violation exists.

2. The Respondent(s) violated the Order of January 18, 2005 and the Respondent(s) continue to violate the Order; therefore, the Special Magistrate imposes and certifies a fine in the amount of One Hundred and 00/100 ($100.00) per day, plus administrative costs, beginning May 18, 2005, which shall continue to accrue until the Respondents come into compliance or until a judgment is entered based upon this certification of fine. In determining the fine amount to be imposed, consideration was

FILE
FEB 13 2006
BY:

(H)

given to: (1) the gravity of the violation(s), (2) any actions taken by the Respondent(s) to correct the violation(s); and (3) any previous violation(s) committed by the Respondent(s).

3. That this Certification, together with the original Final Order, be recorded in the Public Records of the Office of the Clerk of the Circuit Court in and for Broward County, Florida. Pursuant to Section 162.09, Florida Statutes, these documents, once recorded, shall constitute a lien against the land on which the violation(s) exist, and upon any other real or personal property owned by Respondent(s).

4. If any person desires to appeal, pursuant to Section 162.11, Florida Statutes, such person will need a record of the proceedings which includes the testimony and evidence upon which the appeal is based.

Certification of Lien ordered at Lauderdale-By-The-Sea this 30th day of January, 2006.

ATTEST:

BY: _____
Alina Medina, Town Clerk

Special Magistrate of the Town of Lauderdale-By-The-Sea

BY: _____
Ian M. Berkowitz, Special Magistrate

State of Florida
County of Broward

On this, the 14th day of February, 2006, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by Alina Medina, Town Clerk, and Ian M. Berkowitz, Special Magistrate of the Town of Lauderdale-By-The-Sea, Florida.

WITNESS my Hand and Official Seal

JUNE A. WHITE
Notary Public - State of Florida
My Commission Expires Aug 15, 2009
Commission # DD119085
Bonded By National Notary Assn.

_____
Notary Public, State of Florida

JUNE A. WHITE
Printed, typed or stamped name of Notary Public exactly as Commissioned.

☑ Personally known to me

Copies furnished to:
Richard Neubauer
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, Florida 33062

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the PETITIONER Town met its burden of providing by substantial competent evidence, that the alleged violation(s) does in fact exist on the subject property.

ORDER

THEREFORE, BASED UPON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UNDERSIGNED SPECIAL MASTER FINDS THE RESPONDENT GUILTY OF VIOLATING: CODE SECTION 24-5.148 (1).

IN DETERMINING THE FINE AMOUNT TO BE IMPOSED, CONSIDERATION WAS GIVEN TO: (1) THE GRAVITY OF THE VIOLATION(S), (2) ANY ACTIONS TAKEN BY THE RESPONDENT(S) TO CORRECT THE VIOLATION(S); AND (3) ANY PREVIOUS VIOLATIONS COMMITTED BY THE RESPONDENT(S).

FINALLY, THE SPECIAL MASTER FINDS THAT THE RESPONDENT BE GIVEN ONE HUNDRED AND TWENTY (120) DAYS FROM THE DATE OF THIS ORDER TO CORRECT SUCH VIOLATION BY PERMITING, COMPLETING THE WORK AND OBTAINING ALL INSPECTIONS. FAILURE TO COMPLY WITHIN THE SPECIFIED TIME PERIOD SHALL SUBJECT THE RESPONDENT TO A FINE OF ONE HUNDRED AND NO/100 DOLLARS ($100.00) PER DAY. THE PETITIONER HAS REQUESTED AN ADMINISTRATIVE FEE AGAINST THE RESPONDENT IN THE AMOUNT OF ONE HUNDRED FIFTY DOLLARS AND NO/100 ($150.00). THE SPECIAL MASTER GRANTS THE PETITIONER'S REQUEST OF THE ONE HUNDRED FIFTY AND NO/100 DOLLARS ($150.00) ADMINISTRATIVE FEE AGAINST THE RESPONDENT.

Done and Ordered this 18th day of January, 2005 at Lauderdale By The Sea, Florida.

Ian M. Berkowitz, Special Master

ATTEST:

Alina Medina, Town Clerk for the Special Master

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

16th day of Sept, 20 04

Town clerk

Kenneth V. Hemmerle, II
Professional Association
Attorney at Law

SUITE E
1322 NORTHEAST FOURTH AVENUE
Fort Lauderdale, Florida 33304

TELEPHONE (954) 768-9116
TELECOPIER (954) 768-9117

E-mail: KVHIILAW@aol.com
www.hemmerlelaw.com

September 2, 2010

Town of Lauderdale- By- The- Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case Nos: Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2216 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2217 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2218 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2219 (Fire Sprinklers)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2220 (Fire Sprinklers)

Dear Sir or Madam:

This office represents Ocean Medical Center, L.L.C., ("Ocean") the owner of the property located at 4001 North Ocean Drive, Lauderdale-By-The-Sea, Florida 33308 ("the property"). This letter is an attachment to the Application for Relief from certain liens arising out of the above case numbers which were recorded by the Town of Lauderdale-By-The-Sea ("the Town") against Ocean's property. This letter will serve as an explanation as to why relief from the recorded liens should be granted to Ocean.

Ocean received title to the property on December 20, 2005 from Richard A. Neubauer and Winnie I. Neubauer, individually and as Trustees of the Richard A. Neubauer Revocable Trust Agreement dated September 8, 1982, as amended and restated. A copy of the Trustee's Deed is attached hereto.

On Ocean's property is a 1,500 gallon oxygen tank which serviced Ocean Hyperbaric Neurologic Center, Inc. ("Ocean Hyperbaric"), a tenant in Ocean's building.

Ocean Hyperbaric had a contract with Matheson TriGas, Inc. ("TriGas") to supply Ocean Hyperbaric with oxygen which is utilized in its business. The tank and all of the mechanical equipment and apparatus attached to the tank is and was owned by TriGas. In June, 2004 as part of its contractual relationship with Ocean Hyperbaric, TriGas determined that it was necessary to remove an existing 1,500 gallon oxygen tank that it had been supplying oxygen to from Ocean Medical's property and replace it with another 1,500 gallon oxygen tank. In June, 2004, TriGas, prior to removing the existing 1,500 gallon oxygen tank was told by a representative of Ocean Medical that a building permit had to be obtained from the Town as part of their replacing the oxygen tank.

During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). The Fire

Department investigated the incident. As a result of the Fire Department's investigation Ocean Medical was cited with code violations (Case Nos.: 04-2216, 04-2217 and 04-2218) for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned. Neither Ocean nor Ocean Hyperbaric own the oxygen tank.

Case Nos.: 04-2219 and 04-2220 involve the failure to obtain a permit for plumbing and electrical in connection with fire sprinklers in the building where the property is located. Ocean had hired a company by the name of Able Fire Sprinkler, Inc. to install the fire sprinklers. Ocean was told that the job had been finaled and approved by the Town. Ocean learned later that the work had not been finaled and approved by the Town, and that Able Fire Sprinkler went of business. Ocean then hired Carribbean Fire and Associates to take over and finish the job which they did.

After receiving the code violations in Case Nos.: 04-2216, 04-2217 and 04-2218 Richard Neubauer began a process of hiring construction professionals and design professionals to correct the code violations and pull the necessary permit which was not successful.

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr.Bradford D. Townsend, Planning and Zoning Administrator with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the meeting and discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the time that the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building

inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him, Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $200,000.00 in costs to come into compliance. Ocean should also be given relief from the liens in Case Nos.: 04-2219 and 04-2220 because Ocean had hired a contractor to install the fire sprinklers in the building, was subsequently told that the job had been finaled and approved by the Town, the company then went of business and Ocean was required to hire another fire sprinkler contractor to take over and finish the work.

Sincerely,

Kenneth V. Hemmerle, II

KVH,II
Enclosure

Subsection A

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

There are 5 cases encompassing the code violations pertaining to Ocean Medical Center. Two cases deal with fire sprinklers being installed without a permit (Dr. Neubauer hired a sprinkler company in 2003) and three cases deal with an oxygen tank being replaced without a permit (Dr. Neubauer hired an architect and general contractor in 2004). ALL OF WHOM WERE PAID TO CORRECT THE VIOLATIONS and were all fired by Dr. Neubauer for lack of contractual agreements in 2005. (After this year and one half delay, a new general contractor and architect and sprinkler company were hired.) Let it be known that ALL of the above construction issues were performed by "reputable" companies, whom were hired in good faith by Dr. Neubauer, in an effort to maintain a safe environment for his building and his business. All companies took the money for their work, but unbeknownst to Dr. Neubauer, neither company obtained permits for the work that they performed. The vendor, Tri-Gas told Dr. Neubauer that they did not need a permit to change out the oxygen tank since it was a replacement tank of the same size and use. Attached please find opinions stated by the new contractors who eventually completed and CO'ed the projects, A & A Construction, Caribbean Fire and Dixie Plumbing.

Fire Sprinklers

In 2003, Dr. Neubauer hires a fire sprinkler company to install sprinklers on the first floor of his building. The contractor is paid 75% of the contract price, applies for the permit, but never obtains it. Dr. Neubauer does everything in his power to obtain the permit and complete the work by hiring attorneys and filing a DBPR Complaint, all to no avail.

Dr. Neubauer hires another fire sprinkler contractor who is able to get the permit on 07/01/05, finish the work and obtain a final inspection. It took time because inspections failed since the first contractor's plans did not match up to the work done by the second contractor. Plans had to be revised. On 11/17/06, the final fire inspection is approved.

The chronology shows that Dr. Neubauer and his staff, his attorneys and the contractor kept the Town constantly abreast of the progress at all times. The Notices of Violation said to obtain a plumbing permit for the installation of the sprinklers and obtain an electrical permit for the installation of the sprinklers. The Notice **DID NOT SAY "COMPLETE THE WORK AND OBTAIN ALL INSPECTIONS"**.

On 01/18/05, the magistrate said to obtain the permit, complete the work and obtain all inspections in 120 days. This is an IMPOSSIBLE TASK given the fact that:

(1) The first contractor would not or could not obtain the permit and Dr. Neubauer had a contract with them; and

(2) The amount of time to obtain the permit and complete the work was controlled by the building officials in plan review and the contractors doing the work and obtaining the inspections.

The magistrate went beyond what the Town as asking for. THE TOWN WAS ASKING FOR "OBTAIN A PERMIT ONLY".

At all times, the building was never "red tagged" and never found to be unsafe.

When attorney Kenneth Hemmerle met with Brad Townsend in May/June, 006, he said the Town only seeks to recover it administrative costs once the owner comes into compliance and is only interested in compliance, not fines. He estimated them to be around $4,000.00 to $6,000.00. NOTE: There is a note in the Town's file for one of the cases to schedule in April, 2011 to dismiss. This was confirmed by Mr. Bowman, and the reason is that an electrical permit for the sprinklers was not required. (We have a letter to that effect from the Fire Sprinkler Company.)

On January 30, 006, a hearing was held by the magistrate to impose the fines and liens. This is where the propriety of the liens and fines were addressed.

Dr. Neubauer's prior attorney, Dan Taylor of Tripp Scott, put in his notice of appearance with the Town in May, 2005. He was in regular contact with Jeff Bowman and Kami Parker throughout 2005. There is a letter dated 12/01/05 where Mr. Taylor spoke with Mr. Bowman on 11/30/05 and they agreed not to go in front of the magistrate until the work on the fire sprinklers was complete.

Mr. Bowman sends out a Notice on January 5, 2006 to Dr. Neubauer' residence stating that the hearing in front of the magistrate is set for January 30, 006. The notice is not delivered to Dr. Neubauer by the U.S. Postal Service until February 21, 2006, THREE WEEKS AFTER THE HEARING where fines were imposed. NO NOTICE was provided to Dan Taylor – the statute requires this. NO NOTICE was delivered to a person in charge at the building – the statute requires this. Dr. Neubauer did not have any opportunity to present any witnesses or evidence as the Notice provided for because NO NOTICE WAS PROVIDED. In prior hearings before the magistrate, Dr. Neubauer was represented by attorneys, contractors and an architect. Certainly, Mr. Bowman or the magistrate could have inquired about whether notice had be provided before conducting the hearing, namely; Did the attorney get notice? Did the owner get notice? Was notice delivered to

the building to a person in charge? Did they not think it strange that NOBODY showed up, whereupon up until this time Dr. Neubauer always showed up and with an entourage of professionals of interest to the issues at hand AND totally out of character??

Oxygen Tank

All of the Notice issues/problems are pretty much the same because the Town has lumped all of the cases together, only with the tank, there were multiple hold-ups from the County and Town inspectors and multiple "mid-stream" changes from the County and the Town inspectors.

Similarly, a contractor/vendor changed out and existing tank that the vendor owned without a permit. The scope of the project was much larger than simply obtaining an "after the fact" permit and having the inspections.

Major construction was necessary, multiple tests were required and significant amounts of time and money were consumed with meetings with the building officials, changes in the plans from the County's plan review process and throughout the process, as each new inspector that became involved added new requirements that the prior inspectors did not require, causing additional new architectural plans, additional meetings with the building department, additional time and additional money. Yet despite all of the struggles, battles, time and money, Ocean Medical Center has consistently continued to "do the right thing" and meet all of the challenges thrown at them by the County and the Town, in an effort to be in compliance with the County and the Town codes and ordinances.

TRIPP SCOTT

Attorneys At Law
A Professional Association

DANIEL E. TAYLOR
(954) 760-4926
email: det@trippscott.com

May 13, 2005

VIA TELECOPIER: 954-776-1857
Lauderdale by-the-Sea
Zoning Code Compliance
Attn: Kami Parker
4501 Ocean Drive
Lauderdale-by-the-Sea, Florida 33308-3610

RE: Ocean Hyperbaric Center
Notice of Appearance
NOV Cases #04-2216,2217,2218,2219 and 2220

Dear Ms. Parker:

This letter is to serve as a notice of appearance by the law firm of Tripp Scott in the subject code violation matters concerning Ocean Hyperbaric Center. You and I have discussed the Special Master hearing scheduled for May 23, 2005 and I will contact you in the beginning of next week concerning that hearing.

Please call me if you have questions.

Sincerely,

Daniel E. Taylor
For the Firm

DET:kkb

358295v1 991857.0002

Exhibit A

UNITED STATES POSTAL SERVICE

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Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: 7005 0390 0004 9823 6978
Detailed Results:

- **Delivered, February 21, 2006, 8:40 am, POMPANO BEACH, FL 33060**
- **Notice Left, January 07, 2006, 1:12 pm, POMPANO BEACH, FL 33062**

Track & Confirm
Enter Label/Receipt Number.
Go >

< Back Return to USPS.com Home >

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard A. Neubauer
A Trust Richard A. Neubauer
Revocable Trust
Ocean Hyperbaric Surgical
1584 SE 19th Avenue
Lauderdale By The Sea FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
NOH. 04-2216, 04-2217, 04-2218, 04-2219, 04-2220
mailed 1/5/06

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 0390 0004 9823 6978

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Premier Accounts
Privacy Policy

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Neubauer
Revocable Trust
1584 SE 19th Avenue
Lauderdale by the Sea, FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) W Jones | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
Case NO: 04-2216, 04-2217, 04-2218, 04-2219, 04-2220
mailed 2-14-04

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 2570 0000 9026 5305

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Exhibit B

A&A Construction Co.

432 NE 26 ST

Wilton Manors, FL 33305

Lic. CBCO36329

Ph: 954-565-5740

Fax 954-533-4028

To whom it may concern:

Re: Ocean Hyperbaric/Ocean Medical 5/11/11

A&A involvement on this particular job started on 2006 and still on going,
Our involvement was to secure an after the fact permit to encase the new Matheson Tri-Gas tank that was change out without a permit.

My job to secure approved plans changed so many times during the permit process due to the building department comments.
It was easier to obtain permit for the first floor reconstruction than it was to get the 06 permit approved and finaled out.

We are currently working on the 2010 permit required by the building department before the city allowed us to secure the'09 building permit.

I believe the responsibility for the occurred delays on the '06 & '09 permits was not the fault of the owners but the never ending, changing requests of the building departments.

Gary Ansley
A & A Construction
Lic #: CBCO36329

CARIBBEAN FIRE & ASSOC. INC.
3858 SW 30th Ave, Suite 109
Hollywood, FL 33312
Toll Free: 1 800 624 2281
T: 954.581.9393
F: 954.581.2896
www.CaribbeanFire.com

April 19, 2011

Tex Janulis
Ocean Medical Center, L.L.C.
4001 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)
Permit No.: 05-05945

Dear Tex:

As you know we pulled the permit for the fire sprinklers at the above commercial building for the first floor on July 1, 2005. We did not pull an electrical permit for the installation of the fire sprinkler system because it was not required. Our work has passed inspection and approved by Broward County. You informed me that the Town is claiming $101,400 in fines for the above case. You further informed me that the Town of Lauderdale-By-The-Sea through its Code Compliance Officer, Jeff Bowman, stated that it was the Town's intent to dismiss the above case because an electrical permit was not required for the installation of the fire sprinkler system. I would agree with the Town in this regard because it is not necessary for me to pull an electrical permit on any of my fire sprinkler projects to be finaled.

Very truly yours,

Sam Santiago
President

SS

DIXIE PLUMBING SERVICE, INC.

LIC. CFC-019074 TAX ID 59-1375979
1900 N. Andrews Avenue Extension, Suite B
Pompano Beach, Fl 33069
Telephone: 954 972-9595 Facsimile: 954 972-3380
E-Mail patty@dixieplumbing.com

To Whom it may concern:

Re: Ocean Hyperbaric / Ocean Medical
05-10-11

As it may be, I have never been involved in a job where the "approved plan" changed so many times during the permit process, due to building department comments. Without recreating the specific dates and times, we started this particular job in 2006 and finished in December of 2010. Our involvement was to assist in securing and "after the fact" permit for the replacement of a liquid oxygen tank that was changed out by Matheson Tri-Gas. We were not involved in the " change-out" but asked if we could get the tank change-out permitted. Notwithstanding destruction of property from the oxygen chamber fire, it was easier to obtain a permit for the first floor reconstruction than it was to get the original "06" permit approved and finaled out. The responsibility for the incurred delays, in my opinion, was not the fault of the owner, but of the ever changing request of the building department.

Albert C. Korelishn
CFC 019074
Dixie plumbing Service, Inc.
Member of the Broward County Board of Rules an Appeals from 1980 to 2010
Member of the Construction Industry Licensing Board since 2010 to present

Subsection B & C

CHRONOLOGY

Case No.: 04-2216 (Electrical Permit Required for Installation of new oxygen tank)
Case No.: 04-2217 (Plumbing Permit Required for Installation of new oxygen tank)
Case No.: 04-2218 (Building Permit Required for Installation of new oxygen tank)

1983

Records Dating Back to 1983 show that Oxygen Tank is legally on the Property as of 1983

2/18/83 – Permit no. 383 is issued by the Town of Lauderdale By-The-Sea to remove an existing oxygen tank, install a new one and cut roof opening to leave open area.

2002

6/1/02 – Matheson Tri-Gas and Ocean Hyperbaric Center, Inc. sign a product supply agreement. Under this agreement Matheson Tri-Gas owns and maintains the 1,500 gallon oxygen tank and equipment on the property and leases the system to Ocean Hyperbaric Center, Inc. Under the agreement Matheson Tri-Gas supplies liquid oxygen to Ocean Hyperbaric Center, Inc. Ocean Hyperbaric Center, Inc. pays Matheson Tri-Gas a monthly lease fee for the tank and the equipment and a price per cubic foot for the liquid oxygen which Matheson Tri-Gas delivers.

2004

6/17/04 – On June 17, 2004 there existed an MVE 1500 gallon oxygen tank (NB 5665). Matheson Tri-Gas determined that it was necessary to change out the existing 1,500 gallon oxygen tank which they owned and replace it with a new Taylor Wharton 1,500 gallon oxygen tank (NB 52912.2800). Matheson Tri-Gas had the right under the contract to change out the equipment if they determined that it was necessary. Prior to removing the existing tank and replacing it with a new one a representative with Dr. Neubauer's office (Tex Janulis) stated to Ken Ward of Matheson Tri-Gas that a permit needed to be obtained from the Town of Lauderdale-By-The-Sea.

6/17/04 – On June 17, 2004 personnel from Matheson Tri-Gas (Tri-Gas) changed out the existing oxygen tank. During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). **The Fire Department investigated the incident and finding that there was no hazard or danger allowed Tri-Gas to continue with their change out of the tank. Dr. Neubauer did not know that TriGas would fail to follow the code and pull the necessary building permits to change out the existing tank.**

6/18/04 – **Medical Gas Maintenance & Certification, Inc., 12245 62nd Street N., Suite 304, Largo, FL 33773 performs an inspection and test of the tank and certifies that the installation of the liquid tank and reserve manifold are up to NFPA 99c Code.** All samples taken were clean and particulate free.

9/10/04 – Vince Reilly, Administrative Director with Dr. Neubauer's office writes a letter to Ken Ward with Matheson Tri-Gas stating that Broward County had issued a Notice of Violation. **He states in his letter, "as requested by Broward County" you must obtain a building permit. He further states that "our business may be shut down unless the situation is rectified."**

10/8/04 – Dr. Neubauer's attorney, Jacob Arpreister sends a letter to Joe Fahey, Assistant Chief Code Compliance Officer with Broward County Building Code Services. In his letter Mr. Armpreister confirms that Broward County will not take action to shut down Dr. Neubauer's operation providing meaningful progress is made toward issuance of the appropriate permits and all necessary inspections are affirmative.

11/4/04 – Tri-Gas has Albert C. Korelishn of Dixie Plumbing Service, Inc., 1900 N. Andrews Avenue Ext., Suite B, Pompano Beach, FL 33069, contact Dr. Neubauer to pull the after-the-fact permit.

11/4/04 – A meeting takes place between Albert Korelishn, Joe Fahey, Assistant Chief Code Compliance Officer with Broward County and Tex Janulis, a representative for Dr. Neubauer.

11/4/04 – Joe Fahey, Assistant Chief Code Compliance Officer with Broward County writes a letter to Albert Korelishn of Dixie Plumbing Service, Inc. stating that the med gas area around the oxygen tank requires a one hour enclosure. He states that the source valve location must be shown on the piping diagram. He continues and states that since the system has an automatic change over and reserve supply, an alarm is required. He states that this is to comply with Level 1 requirements. Electrical work is required. Mr. Fahey states that a complete piping diagram showing valves, stub outs, alarm sensors, regulators and gauges is required. He states it necessary to show point of discharge for regulators. He states it is necessary to show other points of use for O2, if any. He further stated that NFPA 50 – Bulk O2 requires that the area under the supply vehicles must be non-combustible. He stated that the overhead electrical wires are a concern, however, if they are judged to be dangerous then they can be relocated. Mr. Fahey noted that the fill and fill vent are to be 50' from the patients. He also noted that an approved manifold for cylinder gases is also required.

11/11/04 – Dr. Neubauer signs an agreement with Integrated Design Ideas & Services, Inc. to draft a set of plans of the property – existing conditions, consisting of a site plan, first, second and third floor plans for a fee of $1,500.00.

11/30/04 – Plans finished by Integrated Design Ideas & Services, Inc.

12/2/04 – Notices of Violation are issued by the Town in Case No.: 04-2216 (Electrical Permit Required for Installation of new oxygen tank); Case No.: 04-2217 (Plumbing Permit Required for Installation of new oxygen tank); and Case No.: 04-2218 (Building Permit Required for Installation of new oxygen tank). Under each of these 3 Notices of Violation the corrective action is to obtain the electrical permit, the plumbing permit and the building permit and nothing more.

12/3/04 – Vince Reilly sends a fax to Dan McNeal of PVHO2 Systems, Inc. stating that Sheldon Frank of Electric Service, Inc. will contact him concerning the electrical work on the oxygen tank. He states that Tri-Gas says that Ocean Hyperbaric must address problems before they can rectify code violations.

12/16/04 – Roberto Valencia Architect, P.A. writes a letter to Kam Parker, Code Compliance Officer, stating that the owners of the building have retained their services to assist them with the existing code issues as set forth in the Notices of Violation dated 12/2/04. The architect requested a sufficient amount of time to review the existing conditions and pending violations. The architect requested 30 days to conduct their professional services and prepare a plan and a time schedule to resolve the code upgrade issues cited.

As a result of the Fire Department's investigation Ocean Medical was cited with code violations for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned and removing the old one.

2005

1/18/05 – A special magistrate hearing takes place on **Case No.: 04-2216 (Obtain electrical permit for installation of new oxygen tank and piping); Case No.: 04-2217 (Obtain plumbing permit for the installation of a new oxygen tank and piping); and Case No.: 04-2218 (Obtain building permit for the installation of a new oxygen tank and piping).** In the minutes of the hearing, Code Compliance Officer, Kam Parker, was present on behalf of the Town. Officer Parker stated that since the notice the Respondent (Dr. Neubauer) has been diligently trying to accomplish **achieving the permits. Officer Parker requested an extension of 90 days to accomplish achieving the permits. Officer Parker requested an extension of 90 days to complete the permitting,** a $150 administrative fee and $100 fine for each violation. Roberto Valencia, President of Roberto Valencia Architect, P.A. was present on behalf of Dr. Neubauer. Mr. Valencia stated to the special magistrate that currently documents are being prepared with a consulting engineer that will be submitted to the Town for the necessary permits for the completed installation of the oxygen tank. D. Neubauer is given 120 days to deal with permitting, completion of the work and inspection. The Special Master suggested that communication be maintained with the Code Officer as to the progress of the resolution of the issues and asked that Mr. Valencia relay this suggestion to the property owner.

2/9/05 – Tex Janulis, a representative of Dr. Neubauer, faxes to Fred Pearlman, Broward County inspector, copies of the minutes from the hearing before the special master dated January 18, 2005.

2/18/05 – Dr. Neubauer retains Tumin Engineering Company, P.O. Box 936585, Margate, Florida 33093, to perform a Code Compliance and Life Safety Evaluation report on the building.

2/28/05 – Vince Reilly meets with Tumin Engineering, Tex Janulis and Dr. Neubauer to discuss compliance with the code violations. Tumin Engineering will provide written recommendations.

3/1/05 – Vince Reilly speaks with SprinklerMatic about coming in to complete the work which had been started by Able Fire Sprinkler, Inc.

3/3/05 – Tumin Engineering provides written recommendations to Vince Reilly on the code compliance issues.

3/3/05 – On March 3, 2005 Tumin Engineering Company, P.O. Box 936585, Margate, Florida 33093 issues its Code Compliance and Life Safety Evaluation report on the building. 1.) Tumin reports that according to the oxygen vendor additional equipment is necessary for the system. Tumin reports that a mechanical engineer should be retained to verify the additional equipment and space. 2.) Tumin reports that the top portion of the enclosure is not considered a two-hour rated wall assembly and therefore needs to be reconstructed. Tumin reports that there is inadequate space on the site to relocate the tank in lieu of the protective enclosure. Tumin reports that an architect should design the enclosure. 3.) Tumin reports that the delivery area is required to be non-combustible and needs to be replaced with concrete. 4.) Tumin reports that the pressure relief device discharging piping outlets, filling and vent connections shall be located more than 50 feet from the building entrance.

3/7/05 – Attorney Armpreister contacts Able Fire Sprinkler, Inc. and Broward County Code compliance officer, Jim Fahey regarding the status of the permit.

3/18/05 – Vince Reilly sends an e-mail to Kami Parker at Lauderdale By The Sea advising that he has placed a call to John Burton regarding the designated response level for Ocean Medical Center. He asks Ms. Parker what entity designates the level and whether it can be arbitrated.

3/28/05 – A meeting is scheduled for March 31, 2005 at 1:00 p.m. with Able Fire Sprinkler, Wilson Hernandez, P.A. (architect), attorney Armpreister, Matheson Tri-Gas, Electrical Service, Inc., Tex Janulis and Vince Reilly.

4/23/05 – Ron Gettler, Medical Gas Specialist with Mercury Medical issues a temporary Certificate of Compliance stating that the medical gas piping system of Ocean Hyperbaric complies with the Code with respect to various sections of NFPA 99 (1999).

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr. Townsend with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean

hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $150,000.00 in costs to come into compliance.

4/12/05 – Attorney Armpreister states to Vince Reilly that he will send a letter to Broward County and Lauderdale By The Sea Code Compliance department requesting a 120-day extension due to the County's hold up with the permits.

4/27/05 – Atttorney Armpreister writes a letter to Kami Parker, Code Compliance Officer, stating that Ocean Hyperbaric continues to work toward the resolution of the code issues. He states that Broward County Building Code Services Division has not yet rendered a decision with regard to the application for permit regarding the fire sprinklers. He states that Able Fire Sprinkler had previously submitted an application for permit to the County for review. The County requested additional information and a further revised application package was submitted earlier this month. He states that upon receipt of the fire sprinkler permit from the County Ocean Hyperbaric is ready to commence work. He states that Ocean Hyperbaric has been diligently working toward resolution of the outstanding issues and is requesting an

additional 90 day extension beyond the 120-day deadline as the projects cannot be completed without County approval.

5/2/05 – Attorney Armpreister writes a letter to Kami Parker requesting a hearing before the special magistrate to request an extension of time within which to complete the necessary revisions required of Ocean Hyperbaric regarding the installation of the fire sprinklers and oxygen tank in all of the cases.

5/05 – Kami Parker writes a letter to Attorney Jacob Armpreister where she states that she does not feel that an extension of 90 days on top of the original 120 days is warranted. She states the compliance date will remain June 18, 2005. She states that Ocean Hyperbaric may request a hearing once all permits have been completed and inspected to mitigate the fine.

In May, 2005 Dr. Neubauer retained the services of attorney, Dan Taylor of Tripp Scott. This decision was due to the fact that Able Fire Sprinkler, Inc. still had not completed the work and obtained a final inspection.

5/11/05 – Town of Lauderdale By The Sea issues a notice of hearing/violation in Case Nos.: 04-2219 (Plumbing permit required for installation of fire sprinklers) and 04-2220 (Electrical permit required for installation of fire sprinklers). Hearing is set for May 23, 2005 at 3:00 p.m.

5/11/05 – Dan Taylor with Tripp Scott speaks with the code compliance department and assures them everything was being done to resolve the code issues.

5/13/05 – Attorney Dan Taylor writes a letter to Kami Parker. He states that the letter will serve as his Notice of Appearance in the code violation matters, Cases #04-2216, 2217, 2218, 2219 and 2220.

5/17/05 – Attorney Jacob Armpreister writes a letter to Jeff Bowman. He states that Dan Taylor of Tripp Scott will be handling the case and that this letter confirms that his firm is handling this matter.

5/17/05 – Attorney Dan Taylor writes a letter to Kami Parker requesting that the May 23, 2005 hearing before the special master be rescheduled until after June 18, 2005 and the permits are issued and work inspected. He states that the purpose of the hearing was to reconsider the imposition nof fines and request an extension of the time for compliance.

5/19/05 – Letter from Kami Parker stating that Ocean Hyperbaric Center was removed from the code board hearing scheduled for May 23, 2005.

5/20/05 – Attorney Dan Taylor writes a letter to Kami Parker. He encloses a letter from Quinn I. Miklos, R.A. of Miklos and Associates, P.A. Architects and Planners, the architect on the project. The architect estimates that his work will be completed within 10 days from May 23, 2005. He states that he spoke with John Wagner of Able Fire Sprinkler and he advises that he will resubmit the permit application this afternoon. He states that Ocean Hyperbaric is making every effort to correct the situation that its contractors created.

6/13/05 – Attorney Dan Taylor of Tripp Scott writes a letter to Kami Parker. The purpose of the letter was to update her on the progress made to comply with the Special Master order. He states that regarding the installation of the oxygen tank, Lee Development Construction and James E. Lee, the owner, are responsible for obtaining the building, electrical and plumbing permits. He states that Leo of I.T. Engineers, the structural engineer told him that the engineer's plans would be dropped off to Ocean Hyperbaric so that the plans could be submitted to the City's building department by June 14th. He stated that Robert Frank of Electrical Services, Inc. is working with Lee Development on the electrical permit as is Deveren Peterkin, another engineer consultant. The delay in getting the permit applications to the City is getting all of the contractors and consultants coordinated. The sprinklers system permits have more problematic as John Wagner of Able Fire Sprinkler did not do the things he was going to do and failed to obtain the permit. Mr. Taylor states in his letter that Ocean Hyperbaric expected TriGas to obtain a permit as well as the sprinkler contractor. He says it is costing Ocean Hyperbaric tens of thousands of dollars to correct a situation that it did not cause.

6/28/05 – Attorney Dan Taylor of Tripp Scott sends a letter to Kami Parker, of Zoning Code Compliance. He states that the contractors for the oxygen tank, Jimmy Lee and the sprinkler system, Caribbean, submitted the permit applications to the City. He stated he spoke with the contractors and the permits are still undergoing review. **He stated that contractors are calling regularly to check on the status of the permits but they have been told it could take 4-5 weeks. He states that the permit applications were submitted prior to the June 18th compliance date but that he is concerned that we can no longer control the time for review.**

7/25/05 – Broward County Plan Review (Plumbing) issues comments on the plumbing aspects of the plans – Permit No.: 05-07084.

7/29/05 – Julio C. Vida, P.E. of Leonardo Naveiras, Inc. sends invoice of $3,600.00 for preparation of permit drawings for the oxygen tank..

8/2/05 – Broward County Plan Review (Mechanical) issues comments on the mechanical aspects of the plans – Permit No.: 05-07084.

8/5/05 – Broward County Plan Review (Electrical) issues comments on the electrical aspects of the plans – Permit No.: 05-07084.

8/31/05 – Broward County Plan Review (Structural) issues comments on the structural aspects of the plans – Permit No.: 05-07084.

10/18/05 – Attorney Dan Taylor writes a letter to Kami Parker, Zoning Code Compliance. He updates her on the progress of construction to come into compliance with the notices of violation. He spoke with Caribbean Fire and the interior work has been completed but a new part for the exterior work is needed. The part was ordered and as soon as it is installed Caribbean will call for an inspection. **He states that the work by Lee Construction Development has run into obstacles as a result of the County's comments to the plans.** Tri-Gas's attempt to install the tank without the appropriate permits has resulted in what appears to be the need to completely renovate the oxygen portion of the facility. **He states that since the sprinkler notices of violation will be resolved before the oxygen tank he states that it**

is advisable to address them separately. He states that he will contact her in order to schedule a hearing before the special master.

12/1/05 – Attorney Dan Taylor writes a letter to Jeff Bowman confirming their telephone conference on November 30, 2005. Dan Taylor had spoken with Caribbean Fire and was told the installation was finished, most of the leaks in the previously installed sprinkler lines had been repaired. He was told as soon as the leaks are fixed Caribbean Fire will call for an inspection. Mr. Taylor states that he agrees with Mr. Bowman to go before the special magistrate as soon as the matter is finished. Mr. Taylor states in his letter that Jimmy Lee at Lee Construction is handling the oxygen tank and the work has become more complicated. He states that it is no longer a matter of obtaining an after-the-fact building and plumbing permit, completing the work and passing a final inspection. He states that after going through plan review at the county it is clear that the present oxygen pad location requires major renovation or replacement and therefore a whole new set of plans may be necessary and if that is the case he will request a meeting to show staff the proposed plan prior to coming in for approvals. He should know within the next couple of weeks.

2006

1/30/06 – The Town holds a hearing before the special magistrate on January 30, 2006 at 2:30 p.m. in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220 and issues an Order Imposing Fine/Certification of Lien. NO NOTICE OF THIS HEARING WAS PROVIDED TO DR. NEAUBAUER'S ATTORNEY, DAN TAYLOR OR TO DR. NEUBAUER prior to the date of the hearing. The Notice of Hearing was not delivered to Dr. Neubauer until February 21, 2006, some 3 weeks after the January 30, 2006 hearing. In the Notice of Hearing it states that any request for continuance may be made in writing to the Code Compliance Officer within 10 days. The Notice of Hearing states that each party has the right to call and examine witnesses. It states that any party represented by counsel must file a Notice of Appearance at least 5 days before the hearing date with the Town. It states that if any person desires to appeal any decision regarding any matter considered at the hearing that the person will need a record of the proceedings and that any appeal must be made within 30 days. NO NOTICE OF THE JANUARY 30, 2006 HEARING WAS LEFT WITH THE MANAGER OR OTHER PERSON IN CHARGE AT THE BUILDING LOCATED AT 4001 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA AS REQUIRED BY SECTION 162.12 (1) (d) FLA. STAT. As a result of the Town providing no notice of the January 30, 2006 hearing to attorney Dan Taylor, and because no notice of the hearing was left with a manager or other person in charge at the commercial premises and because Dr. Neubauer did not receive the notice until February 21, 2006 the property owner did not attend the January 30, 2006 hearing and was therefore denied procedural due process of law.

3/25/06 – Dr. Neubauer states to Vince Reilly, Jimmy Lee and Quinn Miklos that he is not in favor of moving the tank enclosure because Town officials state that no permit ever existed which was not correct and he requests that William Tex Janulis take over management of the project.

3/28/06 – Dr. Neubauer authorizes Tex Janulis to review all of the records with respect to the Building at the Town of Lauderdale-By-The-Sea and Broward County.

4/11/06 – Attorney Ken Hemmerle meets with Tex Janulis to go over issues relating to the fines and liens pertaining to the installation of an oxygen tank without a building permit.

5/19/06 – Attorneys Ken Hemmerle and Richard McCusker meet with county building official regarding the code violations.

5/23/06 – Ken Hemmerle speaks with David Burgueno at the County.

5/26/06 Ken Hemmerle and Richard McCusker meet with Bradford Townsend, the Planning and Zoning Director with the Town of Lauderdale By The Sea to discuss the liens and the oxygen tank. It is explained to Mr. Townsend that the 1,500 gallon oxygen tank which was installed in June, 2004 was a change out of a previously existing 1,500 gallon oxygen tank which had been there for years. It was also explained to Mr. Townsend that a building permit had been obtained back in 1983 (over 20 years prior) for the oxygen tank and the structure housing it. Mr. Townsend explained that he required the concrete slab which the tank sat on tested to be sure that the slab was of sufficient strength to hold the tank. He also stated that he required the soil underneath the concrete slab tested to be sure that the soil could hold the slab and the 1,500 gallon oxygen tank resting on the slab. Mr. Townsend also stated to Ken Hemmerle and Richard McCusker that once the tests were completed and the after-the-fact permit issued for the tank the Town would resolve the liens for the Town's administrative costs which he estimated to be between $4,000 and $6,000.

6/2/06 – Ken Hemmerle speaks with an attorney for Matheson TriGas, the owner of the oxygen tank regarding weights and mechanical drawings for the oxygen tank.

6/6/06 – Ken Hemmerle speaks with an engineering firm – Engineering & Inspections Unlimited in Fort Lauderdale about x-rays of the slab.

6/6/06 – Ken Hemmerle speaks with Robert Schuler of Miami regarding x-rays of the slab and the cost.

6/12/06 – Ken Hemmerle speaks with engineer, Fitz Harris about x-ray machine.

7/11/06 – Ken Hemmerle confers with Tex Janulis on the soil and concrete slab tests.

7/12/06 – Fitz A. Harris, P.E. Sructural Engineer agrees to provide structural engineering services consisting of inspection of the existing structure to determine member sizes and amounts of reinforcements utilized for the support slab and enclosure of the oxygen tank, evaluation of soil and concrete tests, structural engineering drawings showing details of the existing structure and modifications to be carried out, special inspection of the reinforced masonry construction.

7/31/06 – Nutting Engineers of Florida, Inc. cut and test concrete cores of slab upon which oxygen tank sits at a cost of $75.00.

8/8/06 – Ken Hemmerle speaks with Broward County Code Enforcement regarding special/independent inspections.

8/23/06 – Ken Hemmerle and Richard McCusker meet with Tex Janulis regarding the plans prepared by engineer, Fitz Harris.

8/24/06 – Ken Hemmerle has a telephone conference with Brad Townsend from Lauderdale By The Sea and sets up a meeting.

8/25/06 – Ken Hemmerle and Richard McCusker meet with Brad Townsend and go over with him the results of the slab and soil tests.

9/5/06 – Ken Hemmerle has a telephone conference with Brad Townsend from Lauderdale By The Sea.

9/6/06 – Ken Hemmerle has a telephone conference with Marge at Lauderdale By The Sea and a telephone conference with Sara Jean at Broward County regarding the old permit number.

9/6/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos, Tex Janulis and engineer, Fitz Harris regarding comments from the County Plan review under the permit application for the tank from 2005.

10/6/06 – Ken Hemmerle has a meeting with Tex Janulis regarding the plumber and the plumbing plans for the tank.

10/10/06 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing Service, Inc., the plumbing contractor who will pull the after the fact permit for the oxygen tank. Ken Hemmerle speaks to him about the fact that the project is a repair project of an existing facility.

10/13/06 – Ken Hemmerle meets with Tex Janulis, Robert Frank, the electrical contractor and Albert Korelishn, the plumbing contractor regarding the plumbing diagrams.

10/18/06 – Ken Hemmerle has a telephone conference with Albert Korelishn and Tex Janulis about the meeting set for Tuesday.

10/19/06 – Ken Hemmerle has a telephone conference with Albert Korelishn.

10/19/06 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas regarding the meeting set for October 24, 2006 which will consist of a discussion of the oxygen tank and the enclosure meeting building code requirements

10/23/06 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas.

10/24/06 – Ken Hemmerle meets with Tex Janulis, Albert Korelishn from Dixie Plumbing, David Henry and Joe Fahey from Broward County regarding the oxygen tank, piping and the structure meeting the building code requirements.

10/27/06 – Ken Hemmerle has a conference with Tex Janulis and structural engineer, Fitz Harris.

11/8/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris.

11/8/06 – Ken Hemmerle has a telephone conference with Albert Korelishn from Dixie Plumbing regarding the status of completing the plumbing plans for the oxygen tank.

11/9/06 – Ken Hemmerle has a conference with Tex Janulis regarding progress on the plans and drawings for the oxygen tank and enclosure.

11/13/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris and a telephone conference with Albert Korelishn from Dixie Plumbing.

11/27/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos about the drawings for the tank.

11/28/06 – Ken Hemmerle travels to architect, Quinn Miklos' office in Boca Raton to meet and discuss the plans and drawings for the oxygen tank.

11/30/06 – Ken Hemmerle has a conference with structural engineer, Fitz Harris and Tex Janulis regarding the plans and drawings for the oxygen tank.

12/4/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the electrician's plans for the oxygen tank.

12/4/06 – Ken Hemmerle places a call to the electrician about his plans for the oxygen tank.

12/8/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos, a telephone conference with the electrician and a telephone conference with Leonardo Naveiras, Inc. the professional engineer responsible for preparing and sealing the electrical and gas drawings for the oxygen tank.

12/9/06 – Ken Hemmerle assembles the finished plans for pick up by Tex Janulis.

12/11/06 – Ken Hemmerle has a telephone conference with with Tex Janulis and Leonardo Naveiras, Inc. regarding the gas piping and electrical plans.

12/12/06 – Ken Hemmerle has a conference with Tex Janulis and the engineer at the Ocean Medical building.

12/12/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris about the plans for the enclosure of the oxygen tank and a telephone conference with Tex Janulis.

12/12/06 – Ken Hemmerle has a telephone conference with Albert Korelishn with Dixie Plumbing, a telephone conference with Sheldon Frank, one of the electricians from Electric Service Company, the electrical contractor and a conference with Tex Janulis all regarding the finalization of the plans and drawings for the structure around the tank, the plans for the gas piping and the plans for the electrical to submit to the Town for the building permit.

12/15/06 – Ken Hemmerle has a telephone conference with engineer, Darin Cudmore with Leonardo Naveiras, Inc. about the piping and electrical drawings.

12/18/06 – Ken Hemmerle has a conference with Tex Janulis to review the finished plans. Ken Hemmerle instructs his staff to set up a meeting at the Town of Lauderdale By The Sea.

12/20/06 – Ken Hemmerle has a telephone conference with Kami Parker at the Town of Lauderdale By The Sea regarding the plans.

12/20/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding submitting the plans for permit tomorrow 12/21/06.

12/22/06 – Ken Hemmerle travels to the Town of Lauderdale By The Sea to submit for a permit the structural, electrical and plumbing plans for the oxygen tank.

12/26/06 – Ken Hemmerle has a telephone conference with the Health Department and a telephone conference with the Agency for Health Care Administration regarding certain requirements for obtaining the permit.

12/27/06 – Ken Hemmerle has a conference with Albert Korelishn, with Dixie Plumbing, the plumbing contractor to sign the plumbing permit application for the oxygen tank.

12/27/06 – Ken Hemmerle has a conference with Robert Frank of Electric Service, electrical contractor to sign the electrical permit application for the oxygen tank.

12/27/06 – Ken Hemmerle has a conference with the Department of Environmental Protection regarding the approval of the plans for the oxygen tank to be submitted for issuance of the permit. Ken Hemmerle pays the Broward County Department of Planning a $35.00 fee for their review and approval of the plans.

12/28/06 – Ken Hemmerle has a telephone conference with the Health Department regarding certain requirements for permitting.

12/28/06 – Ken Hemmerle has a telephone conference with Medical Quality Assurance regarding the application for the permit for the oxygen tank.

12/28/06 – Ken Hemmerle has a telephone conference with Richard Parham at the Broward County Health Department.

12/28/06 – Ken Hemmerle has a telephone conference with Arlene Davis at ACHA, Agency for Health Care Administration.

12/28/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding an update as to the finalization of the package for permitting.

12/29/06 – Ken Hemmerle has a conference with the Town of Lauderdale By The Sea Building Department to submit the plans and applications for permit.

12/29/06 – Ken Hemmerle has a conference with Dr. Neubauer and Tex Janulis at the Town of Lauderdale By The Sea Building Department to submit the plans and applications for permit.

2007

1/15/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the status of the plans in plan review. The plans are in planning and zoning.

1/15/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/19/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/19/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/24/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/24/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/25/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/25/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/26/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea. Jim Bell states that it is OK to go with repair existing structure.

1/26/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea where Jim Bell states that it is OK to go with repair existing structure.

1/26/07 – Ken Hemmerle has a telephone conference with Albert Korelishn with Dixie Plumbing, the plumbing contractor, regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea where Jim Bell states that it is OK to go with repair existing structure.

1/29/07 – Ken Hemmerle has a telephone conference with Tex Janulis and a conference call with Albert Korelishn with Dixie Plumbing, the plumbing contractor.

2/1/07 – Ken Hemmerle has telephone conferences with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding alterations to expanding the existing oxygen tank structure to the south of the oxygen tank enclosure to house the vaporizers that are presently located in the oxygen tank enclosure.

2/2/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea regarding submitting plans to expand the oxygen tank structure to accommodate the vaporizers to the south of the current structure.

2/2/07 – Ken Hemmerle has a conference with Tex Janulis – go over the plans regarding an expanded structure to accommodate the vaporizers.

2/2/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding the dimensions of the shed which is adjacent to the oxygen tank structure which is to be removed and replaced with a concrete structure to house the vaporizers which are connected to the oxygen tank.

2/6/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, on the status of the plans depicting the location of the vaporizers to the south of the oxygen tank.

2/8/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding Albert Korelishn's telephone conference with David Henry of Matheson TriGas to the effect that the size of the shed to the south of the tank cannot be expanded.

2/9/07 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris about redoing the drawings so as to not expand the shed.

2/13/07 – Ken Hemmerle has conferences with structural engineer, Fitz Harris, Tex Janulis and Albert Korelishn regarding the drawings which Albert Korelishn prepared for the vaporizers which are to be located to the south of the oxygen tank.

2/16/07 – Ken Hemmerle has a telephone conference with Albert Korelishn about the reserve oxygen tanks.

2/17/07 – Ken Hemmerle has telephone conferences with Albert Korelishn and Tex Janulis – David Henry of Matheson TriGas states that the reserve tanks cannot go inside the building.

2/20/07 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas regarding the reserve tanks.

2/24/07 – Ken Hemmerle has a telephone conference with Tex Janulis – the client will go forward with the removal of the shed and expansion of the area necessary for the vaporizers.

3/2/07 – Ken Hemmerle has telephone conferences with structural engineer, Fitz Harris, Tex Janulis and Albert Korelishn about opening a new area just north of the oxygen tank structure to accommodate the reserve tanks.

3/2/07 – Ken Hemmerle places a call to the attorney for Matheson TriGas.

3/2/07 – Ken Hemmerle has a telephone conference with Albert Korelishn about the reserve oxygen tank bottles being placed on a shelf attached to the structure/building housing the oxygen tank.

3/5/07 – Ken Hemmerle has telephone conferences with Albert Korelishn, Tex Janulis and Jim Bell from Lauderdale By The Sea regarding the reserve portable oxygen tanks.

3/7/07 – Ken Hemmerle has a telephone conference with engineer Fitz Harris, and Tex Janulis about the portable reserve tanks being placed in an area just north of the enclosure housing the tank with a fence around the tanks.

3/19/07 – Ken Hemmerle has a telephone conference with attorney for Matheson TriGas about whether a portable oxygen system is required for this doctor's office.

3/27/07 – Ken Hemmerle has telephone conferences with attorney for Matheson TriGas, Darren Cudmore with engineer Leonardo Naveiras' office and Tex Janulis that Matheson TriGas stated that the reserve oxygen system is not required.

3/28/07 – Ken Hemmerle receives an e-mail from the attorney for Matheson TriGas and sends a reply e-mail regarding confirmation that portable reserve oxygen tanks are not required.

4/5/07 – Ken Hemmerle has a telephone conference with Jim Bell of Lauderdale By The Sea.

4/6/07 – Ken Hemmerle has a meeting at the Building Department of Lauderdale By The Sea and files the revised plans.

4/18/07 – Ken Hemmerle reviews an e-mail from Broward County Building Department regarding plan review comments to the plans. He forwards a copy of the e-mail to Tex Janulis. Ken Hemmerle has a conference with Tex Janulis about the County's comments on the plans and a telephone conference with Fitz Harris about the County's comments on the plans.

4/18/07 – Ken Hemmerle assembles the plans to be forwarded to Albert Korelishn and engineer Leonardo Naveiras for corrections based upon the plan review comments from Broward County.

5/3/07 – Ken Hemmerle has a conference with his staff about a telephone conference with Lauderdale By The Sea regarding the comments to the plans. Ken Hemmerle conferes with Tex Janulis about this.

5/7/07 – Ken Hemmerle has a conference with Tex Janulis about the plan review comments from Broward County.

5/7/07 – Ken Hemmerle has a telephone conference with engineer Leonardo Naveirs' office about the plan review comments from Broward County.

5/7/07 – Ken Hemmerle has a telephone conference with NFPA and conducts research online at NFPA.org.

5/21/07 – Ken Hemmerle has a telephone conference with Captain Nance with Broward Fire about a handicap parking space near the oxygen tank enclosure.

5/21/07 – Ken Hemmerle has a telephone conference with engineer Fitz Harris about removing (whiting out) the parking space on the plans.

8/14/07 – Ken Hemmerle has a conference with Tex Janulis about him getting the vaporizers installed, doing the plumbing work except connecting the electrical with no down time.

8/14/07 – Ken Hemmerle has a telephone conference with the attorney for Matheson TriGas and Tex Janulis.

8/22/07 - Ken Hemmerle sends an e-mail to the attorney for Matheson TriGas.

8/22/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding status of the project.

11/1/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding status of the project.

12/1/07 – Ken Hemmerle sends an e-mail to attorney for Matheson TriGas regarding manifold and flow switch.

12/11/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the report of the electrician. Ken Hemmerle reviews the fax and e-mails it to the attorney for Matheson TriGas.

2008

1/10/08 – Ken Hemmerle has a telephone conference with Tex Janulis about the portable oxygen reserve system.

1/10/08 – Ken Hemmerle has a telephone conference with engineer Leonardo Naveiras' office about the portable oxygen reserve system. Ken Hemmerle sends an e-mail to engineer Leonardo Naveiras' office.

1/19/08 – Ken Hemmerle receives and reviews an e-mail from engineer Leonardo Naveiras' office and sends an e-mail to the attorney for Matheson TriGas.

2/8/08 – Ken Hemmerle has a telephone conference with Albert Korelishn at Dixie Plumbing.

2/8/08 – Ken Hemmerle has telephone conferences with Tex Janulis regarding his telephone conference with Dave Henry at Matheson TriGas and Albert Korelishn at Dixie Plumbing.

3/3/08 – Ken Hemmerle receives and reviews e-mail from engineer, Leonardo Naveiras' office.

3/5/08 – Ken Hemmerle has a conference with Tex Janulis about permit reinstatement.

4/17/08 – Ken Hemmerle has a telephone conference with Tex Janulis and Vince Reilly about certification issues of Matheson TriGas.

5/5/08 – Ken Hemmerle has telephone conferences with Albert Korelishn and Tex Janulis regarding the meeting which is scheduled with the Chief Plumbing Inspector for Wednesday at 11:00 a.m.

5/7/08 – Ken Hemmerle attends a meeting with Albert Korelishn, the plumber, Tex Janulis, Robert Frank, the electrician and Jim Michaels, the plumbing inspector from Broward County.

6/12/08 – Ken Hemmerle has a telephone conference with Tex Janulis and sends an e-mail to engineer Leonardo Naveiras' office that the portable oxygen reserve system is not an issue.

6/12/08 – Ken Hemmerle has a telephone conference with Tex Janulis and sends an e-mail to engineer Leonardo Naveiras' office regarding the clean gas report. Ken Hemmerle instructs his staff to fax the clean gas report to Jim Michaels, the Chief Plumbing Inspector at Broward County.

7/9/08 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the status of plan changes and final inspection.

8/27/08 – Ken Hemmerle has a conference with Tex Janulis and Albert Korelishn. Ken Hemmerle places a call top Jim Michael, Chief Plumbing Inspector with Broward County.

8/28/08 – Ken Hemmerle reviews the file and has a conference with Tex Janulis and a telephone conference with Albert Korelishn with Dixie Plumbing.

8/29/08 – Ken Hemmerle has a telephone conference with Julio Bercenio, Chief Building Official for Town of Lauderdale-By-The-Sea regarding plan issues.

9/1/08 – Ken Hemmerle prepares an agenda for the meeting scheduled with the Town of Lauderdale By The Sea and Broward County building officials for tomorrow. E-mail the agenda to Tex Janulis.

9/2/08 – Ken Hemmerle attends meeting with the Town of Lauderdale By The Sea and Broward County building officials for tomorrow. Those in attendance are: Albert Korelishn, plumbing contractor, Tex Janulis, owner's representative, Robert Frank, electrical contractor, Steve Pilla, Broward County inspector, Jim Michaels, Broward County Inspector, Kami Parker, Code Officer with Town of Lauderdale By The Sea, Robert Nance with Broward County Fire Department and Shirleen Smith of the Broward County Fire Department.

9/3/08 Ken Hemmerle has a telephone conference with Albert Korelishn, review his notes from the meeting with the building officials. Ken Hemmerle e-mail the recap of the meeting to engineer Leonardo Naveiras' office, Albert Korelishn and Tex Janulis.

9/5/08 – Ken Hemmerle drafts a letter to Broward County and a letter for the Medical Director of Ocean Hyperbaric Neurologic Center regarding the monitoring of oxygen levels in the tank per the request of the Broward County Building Officials.

09/19/08 – Ken Hemmerle (KVH) forwarded a letter to the County in reference to re-instating the Permit.

09/23/08 – KVH spoke with Tex regarding the slab inspection. He also contacted Jim Michaels at Broward County regarding the same.

09/25/08 – KVH spoke with both Tex and Jim Michaels again. The permit was reinstated.

12/05/08 – KVH spoke with Tex regarding his conversation with Marco Perez at Broward County. Checked on the status of the plans from the architect.

12/09/08 – KVH went over the plans with Tex and Tex submitted the revised plans.

12/11/08 – KVH spoke with Tex and Diane about the electrical plans. Electrical plans were approved. He reviewed the plumbing comments and spoke with both Tex and Steve Pilla re the plumbing comments and the meeting.

2009

01/29/09 – KVH spoke with Tex re: status and payment of $1,900+ to the County.

03/02/09 – KVH spoke with both Tex and Al at Dixie Plumbing regarding the plans for the pipe on the north side of the tank.

03/04/09 – KVH spoke with Doug Mitchell at Tri-Gas re: fill pipe on north side. Doug will call Tex to review plans. KVH spoke with Tex re: same.

03/27/09 – KVH spoke with Tex re: tank construction issues.

04/06/09 – KVH spoke with Tex re: permit expiration issues.

04/16/09 – KVH spoke with Tex, Julio (County), Alex Stephenson (County) and Darren Cudmore (engineer) re: meeting on Monday.

04/17/09 – KVH spoke with Tex re: plumbing inspection today at 11:00 a.m. and invoice for the additional new engineering.

04/20/09 – All attended meeting at Town building department with building officials for 3 hours.

04/21/09 – KVH prepared form for extension of permit, took to OMC for signature, picked-up and delivers signed form to the Town building department and spoke with Julio re: same.

04/28/09 – KVH spoke with Al and Tex re: meeting with Dick Paske, Third Party Certifier. Emails Al, Bob and Tex re: Leo's revised plans and asked for their input.

05/04/09 – Conference at OMC with ALL building officials, ALL contractors, KVH and Tex re: status of tank issues.

05/06/09 - KVH spoke with Al, Julio, Steve Pilla and Tex re: tank issues.

05/11/09 – KVH spoke with Tex and Julio re: plumbing report to be filed and permit issued. KVH spoke with Tex and Al re: architect to do additional drawings. KVH spoke with Bob Frank and Tex re: Bob's Final electrical report.

05/15/09 – KVH spoke with Tex re: update on status of tank issues.

05/18/09 – KVH spoke with Dick Paske re: status of report.

05/20/09 – KVH spoke with Tex re: status, his conference with Leo Naveiras (engineer) re: finishing changes to plans based on 4/21/09 meeting the building officials.
Meeting of all – KVH, Tex, Al and Bob.

10/01/09 – KVH spoke with Dan O'Linn and Tex about the '06 permit.

10/05/09 – KVH spoke with Tex re: meeting with building official.

10/07/09 – KVH spoke with Dan O'Linn at the Building Department and advised him that the things requested to be done by the County were completed and that we should like for him to bless it and close out the '06 permit. Dan claimed he would like that as well and that he would review the file and get back to KVH tomorrow. KVH spoke with Tex re: this information.

10/09/09 – KVH spoke with Al at Dixie Plumbing and Tex re: meeting at 10:00 a.m. on Tuesday.

10/03/09 – KVH spoke with the Building Officials.

10/15/09 – KVH spoke with architect Steve Torp at KVH Carlson's. KVH spoke with Tex re: conversation with Steve re: Life Safety Engineer.

10/16/09 – KVH spoke with LSE, Ed Spahn. KVH spoke with Tex re: conversation with Ed and emailed all info to Ed, engineer Darren Cudmore and architect Steve Torp.

10/17/09 – KVH received emails from Cudmore (engineer) and Carlson (architect).

10/19/09 – KVH exchanged multiple emails from with LSE, Ed Spahn, architect KVH Carlson and engineer Darrin Cudmore re: meeting.

10/20/09 – Conference at OMC with LSE Ed Spahn, contractor Gary Ansley, engineer Darrin Cudmore, electrician Bob Frank, KVH, Tex and Al from Dixie Plumbing.

11/03/09 – KVH spoke to Darin Cudmore regarding the status of the LSE's report.

11/04/09 – KVH spoke with LSE Ed Spahn.

11/05/09 – KVH conferred with Al, Steve Torp and Dick Paske regarding the new comments from the building officials. KVH discussed issues with Tex re: same.

11/11/09 – KVH reviewed LSE's report and shared info with Tex and conferred with Ed for clarifications.

11/12/09 – KVH had a telephone conference with Tex re: status on report and other information from Tri-Gas, a telephone conference with architect Steve Torp and attorney for Tri-Gas, Ricky Ravine. KVH confirmed conversation with an email to Ricky Ravine.

11/17/09 – KVH had several telephone conferences with Tex re: report and status regarding questions to Tri-Gas. KVH responded to Leah's emails and had several telephone conferences with LSE Ed Spahn re: report.

11/18/09 – KVH had various, multiple telephone conferences and emails between Tex, Tri-Gas attorney Ravine and LSE Ed Spahn regarding revised LSE report. Report not complete as yet.

11/19/09 – KVH spoke with Tex re: revised LSE reports. KVH reviewed revised report, made comments and conferenced with LSE Ed Spahn. KVH spoke with architect Steve Torp and shared comments with Ed.

11/23/09 – KVH spoke with Tex re: revised LSE report is finalized and received. KVH reviewed the finalized report and made comments. KVH emailed attorney Rick Ravine wanting to know where all the Tri-Gas information we have been requesting for months.

11/24/09 – KVH spoke with Tex re: status report. KVH conferenced with LSE Ed Spahn re: comments to report, reviewed report again and call Ed again. KVH spoke with Tex re: same and left a message with the center to have Leah call.

11/25/09 – KVH contacted Tex re: any response from Tri-Gas. KVH called Tri-Gas attorney Rick Ravine again – Rick advised he is calling his client daily to get us the requested information. Confirmed conversation with an email to Rick.

11/30/09 – KVH sent a letter to the building Official. KVH spoke with Tex and Steve Thorp re: same. Additional phone conference with Steve Torp re: construction issues.

12/14/09 – KVH again emailed attorney for Tri-Gas trying to get the requested information for the permit.

12/15/09 – KVH conferred with Diane and called Dan O'Linn at the County. KVH informed Tex of the feedback from O'Linn. Dan had been out of town for 2 weeks – is taking the plans, letter, etc. home tonight and will he back to us on Thursday. Telephone conference with Tex re: review notes on permit.

12/17/09 – KVH spoke with Rick Ravine from Tri-Gas. Tri-Gas is willing to give us a letter but not from an engineer. KVH spoke with Diane re: Dan O'Linn meeting with his gas man at the County. He will get back with us on Friday or Monday. KVH conferred with Tex re: same and updates. KVH again spoke with Rick Ravine re: requested info from Tri-Gas.

12/21/09 – KVH had a telephone conference with Dan O'Linn from the County. Dan advised that he reviewed our materials and that he needed just a few clarifications from the LSE Ed Spahn. He said the LSE report was good. He also said he had a few questions for the County plumbing inspector and that he would call KVH tomorrow. HE CONFIRMED that he is not adding anything new to the mix. KVH informed Tex re: same.

12/22/09 – KVH had a telephone conference with Dan O'Linn. Everything is fine. He just has a couple of points that Ed Spahn needs to clarify and he will have it in writing hopefully tomorrow. He spent 2 hours with Steve Pilla and he just has to talk to Payne the Fire Inspector. KVH informed Tex of this information. KVH received an email from attorney for Tri-Gas. KVH emailed Steve Torp re: same. KVH informed Tex about the email from Tri-Gas attorney.

12/23/09 – KVH conferred with Tex about a letter from Tri-Gas regarding termination of their agreement and waiting for response from OMC engineer re: is information from Tri-Gas acceptable as to flow and size of tank change out. KVH had a telephone conference with Vince Riley at OMC re: letter from Tri-Gas terminating their 2002 agreement.

12/24/09 – KVH had a telephone conference with Dan O'Linn who advised that fire, structural and electrical were all ok. He just needs to speak with Pilla and Julio. Everything is minor. Just a couple of clarifications (again) from Ed Spahn. He did say we will have to re-route valve across the door. KVH informed Tex. KVH spoke with Steve Torp re: 1" line issue. Email to Rick Ravine, Tri-Gas attorney.

12/28/09 – KVH spoke with Tex. KVH emailed Dan O'Linn with a copy to Tex re: 12/24/09 conference with Dan.

12/29/09 – KVH spoke with Tex. KVH emailed Dan O'Linn, spoke with Ralph Gonzalez and Julio at the County and informed Tex of conversations. KVH reviewed Tri-Gas agreement and called Tex re: the cancellation issues.

12/30/09 – KVH conferenced with Tex re: permit issues and Tri-Gas issues. KVH contacted Mike Kitzinger with Roberts Oxygen. KVH emailed Dan O'Linn re: his telephone conferences with Ralph and Julio at the County.

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01/05/10 – KVH reviewed Tri-Gas letter re: pricing and spoke to Tex re: status. KVH called Dan O'Linn – no word yet on the letter that O'Linn was supposed to email.

01/06/10 – KVH had a telephone conference with Tex, spoke with Julio and emailed Dan O'Linn. Spoke with Tex again.

01/07/10 – KVH called Dan O'Linn and spoke with Tex re: comments and responses.

01/08/10 – KVH spoke with Tex re: '06 permit issues. KVH emailed Ed Span and Dan O'Linn. He emailed Rick Ravie re: letter of termination and adjustment of product pricing. Spoke with Tex again re: same.

01/09/10 – KVH exchanged emails with Dan O'Linn.

01/11/10 – KVH spoke with Ed Spahn about O'Linn's comments and reviewed comments. He emailed Al and Darin re: same. KVH spoke with Al re: meeting. He spoke with Tex and Ed. He exchanged emails with Dan and again spoke with Al re: inspections.

01/12/10 – KVH finalized the response to O'Linn's comments and emailed to Dan, Steve, Al and Ed. Spoke with Ed, Al and Patty at Dixie Plumbing re: inspection records. He attended the meeting at the Town with Dan O'Linn, Puablo, Steve Pilla, Tex, Gary Ansley, Steve Torp and Al for 2 ¾ hours.

01/16/10 – KVH emailed Tri-Gas's attorney re: manufacturer's tank specs.

01/18/10 – KVH exchanged emails with Jared at Tri-Gas re: tank specs and copied to Darrin and Al.

01/19/10 – KVH reviewed notes from the January 12, 2010 Town meeting and emailed O'Linn, Al and Darin. Spoke to Tex re: same. KVH received email from O'Linn and shared with Al and Darin. Spoke to Tex re: same.

01/26/10 – KVH spoke with Gary Ansley re: Dan O'Linn pushing Gary and shared via email to Darin and Al.

01/27/10 – KVH spoke with Darin.

01/29/10 – KVH sent a letter to Dan O'Linn and spoke with Darin re: plans revisions per County.

02/04/10 – KVH spoke with Steve Torp and Jennifer Loft at the Town re: comments. KVH exchanged emails with Dan O'Linn. KVH spoke with Steve Torp, Gary Ansley and Tex then emailed O'Linn re: comments.

02/05/10 – KVH spoke with Darin re: letter requested by building official for exterior door near the vaporizers.

02/08/10 – KVH spoke with Tex and Gary Ansley and emailed the "email trail" to Gary.

02/12/10 – KVH prepared the Permit Application for the exterior door for the '06 permit and a Renewal Permit Application for the '06 permit. KVH spoke with Tex re: permitting and application status and go over the emails exchanged with Dan O'Linn.

02/15/10 – KVH spoke with Tex. KVH met with Gary re: delivery of Application for Permit for door and Renewal/Extension of the '06 permit.

02/16/10 – KVH spoke with Leah re: status of the '06 permit. KVH spoke with Gary re: delivered applications to O'Linn for the door and extensions. KVH conversed and emailed extensively with Tex, Steve Torp and Dan O'Linn.

02/18/10 – KVH spoke to Tex and Gary re: status of '06 permits.

03/05/10 – KVH had a telephone conference with Tex re: building issues and review new comments. KVH emailed and called Jared Vise at Tri-Gas. KVH spoke with Tex re: same. KVH again spoke with Jared re: relief valves and reserve system and informed Tex and Al of same.

03/08/10 – KVH spoke with Tex about not hearing from Dan O'Linn and Jared Vise.

03/10/10 – KVH spoke with Tex and Gary about email and conference with Dan O'Linn.

03/11/10 – KVH emailed Jared Vise and spoke to Tex about it. KVH exchanged emails with attorney John Molnar of Tri-Gas and informed Tex. He copied the emails to Ed Spahn and Al.

03/15/10 – KVH exchanged email with Dan O'Linn and shared with Tex. KVH spoke with Ed Spahn re: amended letter/report concerning relief valves and shared with Tex.

03/16/10 – KVH spoke with Tex re: email to O'Linn. He revised email based on Tex's suggestions and sent to O'Linn. He emailed Darin re: relief valves and Tri-Gas's position on current location of relief valves. He emailed Ed Spahn re: valves and shared with Tex.

03/18/10 – KVH had numerous conferences with Tex re: emails, Spahn's letter and if we reached Darin. KVH talked to Ed Spahn and completed the letter re: valves.

03/19/10 – KVH spoke with Dan O'Linn and Dan said OK for Darin to redline plans to remove relief valve comments on plans and the door painting of area of fill valve is OK. KVH shared with Tex and emailed and spoke with Darin re: same.

03/20/10 – KVH spoke with Tex re: meeting with O'Linn on Monday.

03/23/10 – KVH shared with Tex email to Dan O'Linn re: engineer trying to check the plans re: relief valves and status on various emails including revision of plans by engineer.

03/24/10 – KVH spoke to Tex several times re: emails and letters exchanged with O'Linn and Darin.

04/12/10 – KVH had a telephone conference with Tex re: Steve Pilla and Jim Michaels showing up on the jobsite and Steve Pilla saying he IS NOT going to sign off on the '06 permit and Gary speaking with Dan O'Linn today who advised he will take care of it.

04/20/10 – KVH spoke with Tex re: update on the '06 permit.

04/21/10 – Attorney Dick McCusker researched statute of limitations case law and statues on code enforcement liens.

04/28/10 – KVH reviewed notes from conference with Tex and emailed Jared Vise at Tri-Gas re: pressurization of tank and certification. KVH conferred with Dick McCusker re: his review of legal research on code enforcement liens and statute of limitations on all liens by Town.

04/30/10 – KVH conferred with Tex re: emails to Jared at Tri-Gas and Tex's discussion with the third party verifier.

05/04/10 – KVH exchanged emails with Jared Vise at Tri-Gas re: certification of tank and pressurization. KVH spoke with both Tex and Al re: emails.

05/05/10 – KVH shared with Tex the status on finally hearing back from Tri-Gas's attorney Rick Ravine. KVH had a telephone conference with Rick about the certification. KVH called Tex about O'Linn's conference with Gary that all he needs is the letter from Tri-Gas that the tank is certified.

05/06/10 – KVH spoke with Gary re: the letter from Tri-Gas, he informed Tex and emailed the letter to O'Linn. He spoke with Al re: same. He prepared a letter to Tri-Gas's general counsel John Molnar but is holding off until he hears from O'Linn. KVH exchanged emails with O'Linn and shared with Tex re: the letter.

05/07/10 – KVH conferred with Tex re: emails to O'Linn and his conference with Al and Dick Paske re: certification of tank. KVH spoke with Dan O'Linn re: verifier on plans license has expired. Have verifier certify tank and Dan will call KVH on Monday. Shared with Tex.

05/11/10 – KVH spoke with Linn again re: verifier. Dixie Plumbing's verifier will certify the tank and Al will call for final inspection. Dan will give a TCO when the center is open, the oxygen tank is filled and a permanent CO is issued when the tank is filled. All was shared with Tex.

05/12/10 – KVH reviewed the report of medical gas expert, Dick Paske and spoke with him. KVH spoke with Tex re: same.

05/25/10 – KVH called Al re: tank inspection by verifier/certifier tomorrow at 11:00 a.m. and informed Tex. KVH spoke with Leah re: tank issues. KVH conferred with Tex re: tank issues and Dick Paske's report as well as tank testing/certification issues to close out the '06 permit.

06/07/10 – KVH spoke with Tex re: tank issues.

06/09/10 – KVH spoke with Leah re: Tri-Gas certification.

06/13/10 – KVH reviewed the contract and billing materials of architect re: tank.

06/14/10 – KVH talked to Leah re: architect billing and information.

06/16/10 – KVH conferred with Tex on recent tank certification and status.

06/17/10 – KVH spoke with Leah re: Tri-Gas contract and termination.

06/18/10 – KVH talked to Leah re: Tri-Gas issues.

06/21/10 – KVH had a telephone conference with attorney John Molnar of Tri-Gas re: certification of tank required by building officials and in formed Tex along with Al as to what is needed for the final inspection.

06/22/10 – KVH had a telephone conference with Leah re: his conversation with John Molnar. He reviewed an email from Leah as to what she wants from Tri-Gas. KVH composed an email to John Molnar and shared with Leah, Tex and Al and copied final to Leah and Tex.

06/24/10 – KVH reviewed email from Leah and emailed attorney Molnar at Tri-Gas re: any word?

06/25/10 – KVH emailed Molnar again and shared with Tex.

06/26/10 – KVH responded to Leah's emails re: Tri-Gas.

06/29/10 – KVH spoke with Leah re: Tri-Gas and the email from Tri-Gas to Leah re: attempt to terminate the agreement and Leah's response to them.

07/01/10 – KVH spoke with Leah re: any word from Tri-Gas, using portable units as an alternative and the meetings for next week. He emailed John Molnar and shared with Leah.

07/02/10 – KVH spoke with Bill Sauntry at Tri-Gas re: outstanding bill of $873.00.

07/12/10 – KVH conferred with Tex re: attempt to contact Dan O'Linn and left message as he was on vacation. He left a message with Dennis who was the alternate at County and shared with Tex.

07/15/10 – KVH reviewed Leah's letters to O'Linn re: portable oxygen units. KVH spoke with Tex re: attorney McCormick will be calling.

07/16/10 – KVH spoke to attorney Bill McCormick.

07/20/10 – KVH spoke to Kim at the Town re: mitigation of liens. He reviewed the mitigation application and emailed Kim re: questions.

07/21/10 – KVH conferred with attorney McCusker (Dick) re: liens.

07/30/10 – KVH met with Leah, Winnie and Tex re: Tri-Gas issues and shared with Dick.

08/02/10 – KVH reviewed Tri-Gas contract and shared with Tex and Dick.

08/03/10 – KVH spoke with Tex re: Tri-Gas and drafted an email to attorney Molnar.

08/04/10 – KVH conferred with Leah and Tex, completed email to Molnar and shared with Leah. He reviewed Molnar's email response re: Valdini letter. He spoke with Tex and Leah and emailed Molnar and copied Leah. Dick reviewed all documents and commented to KVH.

08/05/10 – Dick reviewed contract and emails and commented to KVH.

08/11/10 – Dick reviewed material and shared with KVH Tri-Gas status.

08/12/10 – Dick reviewed Tri-Gas material and conferred with KVH status.

08/13/10 – Dick researched gross negligence/punitive dames for Tri-Gas Complaint.

08/14/10 – Dick drafted additional counts for Complaint.

08/16/10 – Dick conferred with KVH re: Tri-Gas Complaint.

08/17/10 – KVH exchanged emails with Leah re: Tri-Gas and reviewed Leah's email re: change in the system. KVH conferred with Dick and emailed Leah re: change in oxygen system.

08/19/10 – KVH conferred with Dick and Tex re: tank issues, contract, Complaint and third party supplier.

08/24/10 – KVH drafted and revised the Tri-Gas Complaint. Dick spoke with KVH re: count of the Complaint.

08/25/10 – KVH continued drafting Complaint and conferred with Dick re: Causes of Action and theories, revisions, negligence counts and estoppel/statute of limitations. Revision 4 of draft.

09/02/10 – KVH completed the letter/package to Town re: relief from Liens, conferred with Dick and delivered package to the Town Building Department.

09/10/10 – KVH reviewed email/letter from Diane and emailed Diane revised letter to the Town.

09/15/10 – KVH spoke with Leah re: status on lien clearances. Dick and KVH conferred and reviewed email from attorney Andrew Stone (Stone) re: liens.

09/17/10 – Dick spoke with KVH re: removal to Federal Court and reviewed case law.

09/20/10 – KVH reviewed the Answer and Affirmative Defenses of Tri-Gas. KVH spoke with Tex and Leah re: status. KVH spoke with Leah re: suppliers being interfered with by Tri-Gas and informed Gary Ansley of the same. Dick reviewed Tri-Gas Notice of Removal and Declaration, removal requirements, Answer and Affirmative Defenses and research remand law.

09/21/10 – Dick continued reviewing case law and removal/remand.

09/22/10 – Dick reviewed Court Practices Notice.

09/23/10 – Dick spoke with KVH re: indemnity agreements and disconnection of vaporizer. Dick reviewed email that KVH sent to Stone re: Town agenda re: liens. KVH conferred with Tex re: release and indemnity agreement of subcontractors and shared with Al and Leah and emailed draft revision to Hold Harmless Agreement to Leah.

09/27/10 – Dick reviewed Tri-Gas scheduling order and conferred with KVH. KVH spoke with Kim Williams at the Town re: liens/status on getting on commission agenda. Shared results with Tex.

09/30/10 – Dick researched code violations and property liens.

10/01/10 – KVH spoke with Assistant Town Manager, Bud Bentley (Bud) re: liens. KVH spoke with Vince Riley and Dick re: lien issues. Attorney Laura Morgan reviewed liens and consulted with KVH.

10/02/10 - KVH conferred with Dick re: lien issues, strategy, case law and legal research.

10/04/10 – KVH conferred with Dick and Mike Dolan at Chicago Title re: liens. KVH called attorney Sharon Miller at the City of Fort Lauderdale. KVH spoke with Vince advising him of the telephone conferences with the Town and the Title Company and the various options. Vince says to offer them $25,000.00. Dick reviewed an email from attorney Brian Hole (Brian) re: conference call and Notice of Jury Trial Demand.

10/05/10 – KVH conferred with Dick and Tex re: Federal Tri-Gas case in preparation for conference call with opposing counsel and settlement issues. Conference with attorneys Jeff Davis (Jeff), Brian and Dick re: Federal case. KVH and Dick conferred re: Tri-Gas conference, review court order, conference with Tex and KVH, scheduling order, emails and mediation dates.

10/06/10 – KVH and Dick confer re: Tri-Gas case, strategy on remand, mediation and Striking of Defenses. Dick reviewed the proposed order, mediation, email to the judge, corporate disclosure statement and settlement outline from Jeff and discussed with KVH.

10/07/10 – KVH conferred with Dick and Tex re: attorney fee and Tri-Gas matter. Dick reviewed response to Jeff, settlement offer, removal cases and conferred with KVH.

10/11/10 – KVH did legal research in preparation for Motion to Strike and drafted Motion to Strike Tri-Gas's Affirmative Defenses and legal research. Dick researched remand case law and shared with KVH.

10/12/10 – KVH finished drafting Motion to Strike, share with Dick, finalize Motion and file with Federal Court. Dick researched deficient notice/remand in Federal Court, drafted Motion to Remand and conferred with KVH.

10/13/10 – Dick completed draft of Motion to Remand and shared with KVH.

10/14/10 – Dick reviewed Order on Motion to Strike.

10/15/10 – Dick Reviewed Pro Hac Vice Motion.

10/18/10 – KVH reviewed remand status report, Motion for Remand, shared with Dick and revised Motion for Remand. Dick reviewed same and conferred with KVH re: revisions and new citations.

10/19/10 – KVH revised Motion for Remand, conferred with Dick and filed Motion with Federal Court. KVH and Dick reviewed emails between KVH and Jeff and discussed same along with settlement issues.

10/20/10 – Dick researched Reply to Affirmative Defenses, Federal Rules and Federal Case Laws.

10/21/10 – KVH spoke to Tex re: city commissioner and status of Tri-Gas. KVH contacted the Florida Bar re: issue of contacting commission. He reviewed case law pertaining to communication with a member of a quasi-judicial body.

10/22/10 – KVH conferred with Tex and Leah re: damages – Tri-Gas. He reviewed Order from Federal Court and shared with Dick. Dick reviewed Order Granting Appearance, Order Requiring Filing re: jurisdiction and researched case law re: burden of proof.

10/23/10 – Dick reviewed cases and emailed KVH.

10/24/10 – Dick drafted Response to Court Order Filing.

10/25/10 – KVH spoke to Town Commissioner Chris Vincent re: agenda and summary of fines and liens and shared results with Tex. He reviewed Response to Court Order re: jurisdiction, shared with Dick and filed final Response with Federal Court.

11/05/10 – Dick reviewed Tri-Gas's Response to Motion to Remand, contract and researched measure of damages in Federal and State law and shared with KVH.

11/06/10 – Dick Researched procedure for Response to Motion for Remand, local rules, defendants case law and drafted Reply to Remand.

11/08/10 – KVH and Dick confer re: Response.

11/10/10 – KVH reviewed Response to Motion to Remand, draft of Reply to Response, revise Reply, shared with Dick and his revisions and filed with Federal Court.

11/16/10 – KVH conferred with Tex re: his contact with John Bowman at the Town re: getting on the agenda and new proposed resolution in the work where liens will be handled by Town staff.

11/24/10 – KVH reviewed Federal Court Order and shared with Dick. Dick reviewed the Order Denying Remand, researched appeal, case law, Federal rules and drafted memo. Dick conferred with Scott Ellison, Tri-Gas counsel re: discovery and reviewed faxed discovery from Tri-Gas.

11/29/10 – Dick reviewed scheduling order and research local rules re: discovery motions and conferred with KVH the status of new oxygen system.

12/01/10 – Dick reviewed Federal rules re: discovery and due dates, email to KVH re: portable system issues. Dick and KVH conferred re: status, strategy and progress.

12/02/10 - KVH spoke with Leah re: status of the Tri-Gas case settlement options, recent Order by Federal Court and discovery. Shared same with Dick. KVH spoke with

Tri-Gas attorney Jeff Davis. Dick and KVH conferred re same and system issues, damages calculation and Motion to Stay. Both conferred with Scott.

12/08/10 – KVH conference called Leah, Winnie, Tex, Dr. Daviglus and Dr. Rodas re: Tri-Gas case. Dick conferred re: Tri-Gas damages and meeting.

12/09/10 – Dick and KVH spoke about the Motion for Continuance and drafted an email to Scott.

12/10/10 – KVH and Dick prepared for the conference call with Scott. Both conferred with Scott re: the possibility of a Stipulation for Dismissal to re-file as an alternative to a continuance of the Federal case. KVH spoke with Leah re: Dismissal Without Prejudice as a solution, damages issues and speedy trial date base on Judge's scheduling Order and to her he was available for questions.

12/14/10 – KVH spoke to Tex re: Tri-Gas strategy of a Voluntary Dismissal Without Prejudice.

12/15/10 – KVH conference called Dr. Daviglus, Leah, Vince and Ginger. He reviewed law on dismissals and shared all with Dick. Dick researched Federal local rules on dismissal, costs and fees and shared with KVH.

12/16/10 – KVH spoke with Scott re: Continuance/Voluntary Dismissal without Prejudice in Tri-Gas case and shared with Dick the same.

12/17/10 – KVH did legal research to prepare Joint Stipulation for Voluntary Dismissal. KVH and Dick conferred in preparation for the conference call with Scott re: Voluntary Dismissal and parameters. KVH prepared draft of Agreement with Tri-Gas attorneys, shared with Dick and emailed to Scott the Joint stipulation for Dismissal and the Agreement. He revised the Agreement, sent to Scott and shared with Dick.

12/18/10 – Dick reviewed Pro Hac Vice (PHV) Motion re: Scott and share with KVH.

12/21/10 – KVH conferred with Dick re: Tri-Gas status and call to Scott. Dick reviewed posting of Denial of PHV Motion, email to Scott, conference with Scott, scheduling Order on Discovery Order on Vacating Denial PHV Order – granting and statute of limitations. Shared all with KVH.

12/23/10 – KVH had a conference call with Scott going over the Agreement. KVH revised Agreement. Dick reviewed the email and revised Agreement from Scott. Dick researched refilling issues, attorney fees, Rule 41 Fees Federal case law and Moreno orders and shared with KVH. KVH and Dick conferred with Scott, and revised Agreement and emailed to Scott.

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01/04/11 – KVH spoke with Scott, revised the Agreement and emailed to Scott. Several more conferences between KVH, Dick and Scott and revisions. KVH emailed final to Scott.

01/07/11 – Dick reviewed emailed signed Agreement from Scott.

01/11/11 – KVH spoke with Scott re: the Stipulation and Agreement. KVH spoke with Jeff Bowman at the Town re: status of resolution to have staff deal with fines/liens and agenda time frame. KVH shared with Tex and Dick

01/12/11 – KVH emailed signed Agreement to Scott and filed Joint Stipulation for Dismissal without Prejudice with Federal Court. Shared all with Dick.

01/14/11 – Dick reviewed Oder of Dismissal from Judge Moreno.

01/18/11 – KVH spoke with Leah and Leah said to Close out the Town liens before settling with Tri-Gas. KVH shared with Dick. KVH called Jeff Bowman.

01/19/11 – KVH spoke with Leah to explain the offer of $10,000.00 and that Jeff Bowman is putting us on agenda and will have a recommendation in 2 weeks. KVH spoke with Jeff Bowman and he is putting us on the February agenda and it will go before the city council without need for testimony, etc.

02/01/11 – KVH spoke with Jeff Bowman re: facts and issues in the case vis-á-vis and recommendation.

02/02/11 – KVH spoke with Jeff Bowman, Dick, Bud Bentley and Jeff again going over and reviewing liens, fines and Final Order. KVH contacted Jeff Bowman and Bud Bentley again re: the facts of the case, mitigation and listing. KVH spoke with Dr. Daviglus re: status of lien file. Dick conferred with KVH re: Town calculations of fines, Final Orders, permits and review of Notices and Orders.

02/03/11 – Dick researched validity of Certification of Lien, review of Broward County records of Liens and certification, Fl. Stat. 162.09 and Massey Notice and shared with KVH.

02/04/11 – KVH had multiple conferences with Dick and real estate attorney Laura Morgan re: the memo Attorney's Title Insurance to find re: liens and revised same. KVH reviewed Laura's memo to attorney's Title re: liens and made a revision, reviewed Dick's revisions and shared with all. Dick reviewed all documents.

02/07/011 – KVH reviewed opinion from the attorney's at Title Underwriter Counsel and shared with Dick. KVH spoke with Lori Cadarid at Chicago/Ticor/Fidelity.

02/08/11 – Dick spoke to KVH about a call to attorneys Title re: a lien problem.

02/10/11 – KVH contacted Lori at Chicago Title and emailed Lori. He spoke to Jeff Bowman and shared with Dick about code liens and strategy.

02/11/11 – KVH exchanged multiple emails with Ric Rivas, underwriting counsel at Chicago Title, Dan O'Linn, Jeff Bowman and Bud Bentley. KVH exchanged multiple phone calls with Bud Bentley, Jeff Bowman and Dick. Dick conferred with KVH conversations, Town strategy, notices, case law and Statutes.

02/12/11 – Dick drafted a memo re: Massey notice and liens.

12/14/11 – KVH exchanged emails and phone calls with Dick re: Massey argument for failure to provide notice of Lien to owner and list out arguments for the city attorney. Dick researched actual notice, due process, code statutes and drafted a memo.

02/15/11 – KVH prepared for and attended a meeting with Jeff Bowman, Kim Williams, Dan O'Linn, Steve Payne and Tex. He emailed Town attorney Susan Trevarthen. KVH conferred with Tex re: status on contact with Town attorney and points of the meeting this morning. KVH spoke with Town attorney and shared with Dick. Dick conferred with KVH re: Town meeting, arguments and chronology of work along with notice statutes, Town attorney's position and review of Town ordinances and code.

02/16/11 – KVH spoke with Tex re: status of discussion with Town attorney re: liens. He reviewed a memo from Dick re: Massey notice case law and conferred research under Chapter 163. Florida Statute. Dick researched recorded liens, subsequent purchaser, ordinances and public records. He drafted a memo for Town clerk and shared with KVH.

02/17/11 – KVH continued to draft memo to Town attorney and conferred with Dick re: same. KVH spoke with Tex re: emails from Dan Taylor. He exchanged emails with Town attorney and he shared with Tex. KVH spoke with Tex re: evidence he uncovered pertaining to liens, emails from Trip-Scott and attorney Armpreister and shared with Dick. KVH worked on email memo to Town attorney. Dick conferred with KVH re: emails from prior attorneys re: lien resolution. Reviewed correspondence with Town attorney and revise and exchanged emails with Town attorney.

02/18/11 – KVH spoke with Tex, emailed Jeff Bowman, worked on the memo to Town attorney and reviewed materials from Tex's records. KVH conferred with Dick re: law on Notice of Charges vis-à-vis Final Order of Magistrate. KVH spoke with Tex again and went over additional records pertaining to '06 permit. He prepared and email memo to Town attorney re: OMC coming into compliance when the permits were issued. KVH conferred with Dick and Tex re: memo to Town attorney. Dick researched beyond scope, notice and online Town archives re: minutes.

02/19/11 – KVH conferred with Tex and prepared chronology for cases for lien mitigation.

02/21/11 – KVH conferred with Tex and continued with chronology.

02/22/11 – KVH spoke with Tex re: chronology. Dick reviewed email KVH sent Town attorney re: violations.

02/23/11 – KVH spoke with Tex re: chronology and email to Jeff Bowman. KVH spoke with and emailed Jeff Bowman. Dick spoke with KVH re: same.

02/24/11 – KVH spoke to Bud Bentley re: he is in agreement on 20% of $8,600.00 fine amount and shared with Tex. KVH spoke with Laura re: same and estoppel letter. KVH emailed Bud Bentley and shared with Tex and Dick.

02/25/11 – KVH spoke with Tex and Dick re: conversation with Bud re: liens and status

02/28/11 – KVH conferred with Tex and Jeff Bowman. He emailed Jeff Bowman and Bud Bentley and reviewed Bud's reply and answered, and shared with Tex.

03/01/11 – KVH continued work on chronology. He conferred with Jeff Bowman re: status and Jeff is waiting to hear from Town attorney. Shared with Dick.

03/02/11 – KVH spoke with Jeff Bowman re: liens and public records requests for minutes and shared with Dick and Tex. KVH emailed Bowman. Dick conferred with KVH re: communications with the Town, attorney feedback, notice research and procedural due process along with memo and letters to Jeff and Bud.

03/03/11 – KVH spoke with Dick and Tex re: email from Bud Bentley. He drafted a letter to Jeff and Bud re: negotiations and shared with Dick and Tex. KVH and Dick reviewed and conferred re: the minutes for 1-18-05, 5-23-05 and 1-30-06.

03/04/11 – KVH spoke with Tex re: all findings.

03/07/11 – Multiple conversations between KVH, Dick, Chris Vincent, Jeff Bowman and Tex re: emails, attachment re: chronology and prior representations.

03/08/11 – KVH spoke with Tex and Dick re: status and results. Contact with Florida Bar Staff attorney re: only speaking with Town attorney.

03/09/11 – KVH spoke with Tex and Dick re: call to Chris Vincent. He shared with Tex contact with Town attorney and Dick's comments.

03/10/11 – KVH conferred with Town attorney. She claimed to respond tomorrow. Shared with Tex and Dick.

03/14/11 – KVH spoke with Chris Vincent and reviewed email memo from Town attorney. Shared with Tex and Dick.

03/15/11 – KVH conferred with Dick and Tex re: status and strategies. Dick researched case law re: memo, March agenda, email to Vincent and prior attorney's files.

03/16/11 – KVH called Chris and Jeff and conferred and email exchanges with Dick. He also spoke with Tex and Dan Taylor (prior attorney) re: case facts, involvement regarding liens and code violation hearings. He telephone conferenced Dr. Daviglus, Tex, Vince and Ginger re: status of lien mitigation process.

03/17/11 – KVH revised chronology and letters to Bud and Jeff and shared with Tex and Dick. He spoke with assistant Town attorney, Michele Vos.

03/21/11– Dick researched case law re: official authority, ultra vires, approval, ratification of Agreement and Town ordinances re: official authority.

03/22/11 – KVY conferred with Tex (update/status), Dick, (case law on estoppel issues) and Dan Taylor.

03/24/11 – KVH continued work on tank chronology. Multiple communications between Tex, Dick and Dan Taylor and research re: failure of Town to notice attorney for the January 30, 2006 hearing.

03/25/11 – KVH reviewed emails re: case law on lack of Notice of Hearing to attorney Dan Taylor and shared with Dick, Tex and Kim William.

03/26/11 – KVH shared with Dick case law on Lack of Notice, additional due process and emails.

03/28/11 – KVH reviewed files at Town Hall, check on certified copies at Town Hall and shared with Tex and Winnie. He continued research and contacted Tex and Dan Taylor. His contact with Jeff Bowman confirmed Town will dismiss Case No. 04-2220 and he sent an email confirmation. He shared with attorney Laura Morgan.

03/30/11 – KVH continued to work on chronology and shared with Dick. Dick researched dec action, attorney fees, slander of title action, quiet title, email from Bowman and shared with KVH. Multiple conversations and emails between KVH, Dick and Tex along with sharing the letter to Town attorney.

03/31/11 – KVH continued chronology and had multiple contacts between Tex, Bud, Jeff re: dismissal. Kim will return call on Monday with info as to dismissal. Dick continued research re: additional case law, arguments to Town attorney and developments for revision of letter to Town attorney.

Subsection D

Costs encountered by Ocean Medical Center - Oxygen Tank	
Vendor	Approximate Amount Paid
Nutting Engineering	$1,200.00
JT Electric	$10,500.00
Altron Electric	$9,500.00
Bob Frank Electric	$32,626.00
Dixie Plumbing	$42,580.00
Original Architect	$3,200.00
Navarius Architect / Engineer	$11,250.00
Architect Fitz Harris	$2,800.00
Architect Ken Carlson	$2,200.00
Med Gas Testing	$1,350.00
Life Safety Engineer	$2,000.00
A & A Construction	$78,650.00
Attorney Dan Taylor/Tripp Scott	$17,500.00
Attorney Armpreister	$8,900.00
Attorney Hemmerle	$190,000.00
Broward County Building Department	$8,500.00
Total Paid	$422,756.00

Exhibit 3

E.I.N.
5/12/11

TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 776-0576
Fax: (954) 776-1857

APPLICATION FOR RELIEF FROM CODE ENFORCEMENT FINES OR LIENS

* No application will be accepted or processed unless all violations on the property have been placed in compliance by Code Enforcement

CASE # Case # 04-2218

TOWN OF LAUDERDALE-BY-THE-SEA vs. Richard Neubauer Richard A. Neubauer Revocable Trust
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Winnie I. Neubauer, Manager of Ocean Medical Center, L.L.C. (Owner of Property.)
(Person to attend Hearing)

ADDRESS OF APPLICANT: 4001 North Ocean Drive
(Full mailing address) Lauderdale-By-The-Sea, FL 33308

PHONE NUMBER: 954-771-4000

ADDRESS OF PROPERTY: 4001 North Ocean Drive
(Where violation(s) existed) Lauderdale-By-The-Sea, FL 33308

NATURE OF VIOLATION: Code Violations for failure of a VENDOR (Matheson Tri-Gas) to obtain a building permit before changing out an existing 1,500 gallon oxygen tank.

THIS PROPERTY CURRENTLY IS ☐ IS NOT ☒ (check one) INVOLVED IN LITIGATION

All Applications for Relief (where applicable) MUST have the following documentation provided as part of the Application to be reviewed:

N/A 1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
N/A 2. A copy of the Foreclosure Complaint;
3. A copy of the Foreclosure Order, with the recording date, book and page shown;
4. A copy of the Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. A copy of the Certification of Lien Order, with the recording date, book and page shown;
6. A copy of the new Certificate of Title, with the recording date, book and page shown;
7. A copy of the Town's Final Order of Imposition of Fine; and
8. A copy of the Claim of Lien(s) with the recording date, book and page shown.

Please provide a copy of these requirements with all Applications for Relief.

LAUDERDALE-BY-THE-SEA
RECEIVED
MAY 12 2011
DEVELOPMENT
SERVICES

FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

A. The nature and gravity of the violation(s);
B. Any actions you have taken to correct the violation(s);
C. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
D. Any actual costs you expended to cure the violation(s), if supported by documentation;
E. Any other prior or current violations committed on the subject property or upon any other property you own within the Town; and
F. Equitable considerations.

WHY RELIEF SHOULD BE GRANTED (This section must be completed and, at a minimum, should address the above factors): See Attached

(Attach additional pages if needed, along with any supporting documentation)

IF APPLICABLE:
Name Of Attorney/Representative: _____

Address: _____

Phone Number: _____

I CERTIFY THAT I am the current owner of the subject property or an Attorney for said owner, or that I am the legal representative for the property or otherwise authorized to act on behalf of the property owner in this matter.

Winnie Neubauer — Signature of Applicant

5-12-11 — Date

(NOTE: Proof of such lawful authority or written authorization from the property owner must be provided by the applicant prior to this matter proceeding.)

Subsection F

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

May 11, 2011

Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Town of Lauderdale-By-The-Sea v. Richard Neubauer, et al
Case No.: 04-2218 (Oxygen Tank)

Dear Town of Lauderdale-By-The-Sea:

As you are aware, the Town of Lauderdale-By-The-Sea (Town) has informed Ocean Medical Center, LLC, a/k/a Neubauer Hyperbaric Neurologic Center, Inc. (OMC), that there are accumulated fines in the above referenced case. According to numerous conversations with representatives of the Town whom assured us that the Town was only interested in collecting administrative fees in the above referenced case, OMC is offering $5,000.00 to settle this case based upon the information provided in our second Application for Relief from Code Enforcement Fines or Liens and an explanatory letter from attorney Kenneth V. Hemmerle, II, Esq., dated September 2, 2010.

We would appreciate your prompt consideration to resolve this matter as it has been continuing on for years and has caused an extreme financial burden on OMC.

Sincerely,

Winnie Neubauer

Winnie Neubauer
Owner

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the PETITIONER Town met its burden of providing by substantial competent evidence, that the alleged violation(s) does in fact exist on the subject property.

ORDER

THEREFORE, BASED UPON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UNDERSIGNED SPECIAL MASTER FINDS THE RESPONDENT GUILTY OF VIOLATING: CODE SECTION 24-5.148 (1).

IN DETERMINING THE FINE AMOUNT TO BE IMPOSED, CONSIDERATION WAS GIVEN TO: (1) THE GRAVITY OF THE VIOLATION(S), (2) ANY ACTIONS TAKEN BY THE RESPONDENT(S) TO CORRECT THE VIOLATION(S); AND (3) ANY PREVIOUS VIOLATIONS COMMITTED BY THE RESPONDENT(S).

FINALLY, THE SPECIAL MASTER FINDS THAT THE RESPONDENT BE GIVEN ONE HUNDRED AND TWENTY (120) DAYS FROM THE DATE OF THIS ORDER TO CORRECT SUCH VIOLATION BY PERMITING, COMPLETING THE WORK AND OBTAINING ALL INSPECTIONS. FAILURE TO COMPLY WITHIN THE SPECIFIED TIME PERIOD SHALL SUBJECT THE RESPONDENT TO A FINE OF ONE HUNDRED AND NO/100 DOLLARS ($100.00) PER DAY. THE PETITIONER HAS REQUESTED AN ADMINISTRATIVE FEE AGAINST THE RESPONDENT IN THE AMOUNT OF ONE HUNDRED FIFTY DOLLARS AND NO/100 ($150.00). THE SPECIAL MASTER GRANTS THE PETITIONER'S REQUEST OF THE ONE HUNDRED FIFTY AND NO/100 DOLLARS ($150.00) ADMINISTRATIVE FEE AGAINST THE RESPONDENT.

Done and Ordered this 18th day of January, 2005 at Lauderdale By The Sea, Florida.

Ian M. Berkowitz, Special Master

ATTEST:

Alina Medina, Town Clerk for the Special Master

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

16th day of Feb, 20 06

Town clerk

RECEIVED
FEB 04 2005
BY:

TOWN OF LAUDERDALE BY THE SEA
CODE COMPLIANCE SPECIAL MASTER

CASE NUMBER: 04-2218

TOWN OF LAUDERDALE BY THE SEA,

Petitioner

vs.

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 SE 19th Avenue
Lauderdale By The Sea, FL 33062,

Respondent

FINAL ORDER

HEARING DATE: 18th DAY OF JANUARY, 2005.

VIOLATION(S): CODE SECTION 24-5.148 (1)

An administrative hearing was held before the Special Master on January 18, 2005. Set out below are the findings of fact, conclusions of law and final order for the subject hearing.

FINDINGS OF FACT

The record indicates that the RESPONDENT owns certain real property located at 4001 Ocean Drive, Lauderdale By The Sea, Florida 33308 and more particularly described as follows:

Tax Folio Number (Property I.D.): 9318-04-075

At the hearing held on this matter on January 18, 2005 the PETITIONER Town presented testimony by Code Enforcement Officer Kami Parker, concerning her personal knowledge of the existence of the subject violation(s), and entered into record evidence of notice required under Chapter 162 Florida Statutes. Respondent, RICHARD A. NEUBAUER REVOCABLE TRUST was not present at the hearing.

given to: (1) the gravity of the violation(s), (2) any actions taken by the Respondent(s) to correct the violation(s); and (3) any previous violation(s) committed by the Respondent(s).

3. That this Certification, together with the original Final Order, be recorded in the Public Records of the Office of the Clerk of the Circuit Court in and for Broward County, Florida. Pursuant to Section 162.09, Florida Statutes, these documents, once recorded, shall constitute a lien against the land on which the violation(s) exist, and upon any other real or personal property owned by Respondent(s).

4. If any person desires to appeal, pursuant to Section 162.11, Florida Statutes, such person will need a record of the proceedings which includes the testimony and evidence upon which the appeal is based.

Certification of Lien ordered at Lauderdale-By-The-Sea this 30th day of January, 2006.

ATTEST:

BY: _____
Alina Medina, Town Clerk

Special Magistrate of the Town of Lauderdale-By-The-Sea

BY: _____
Ian M. Berkowitz, Special Magistrate

State of Florida
County of Broward

On this, the 14th day of February, 2006, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by Alina Medina, Town Clerk, and Ian M. Berkowitz, Special Magistrate of the Town of Lauderdale-By-The-Sea, Florida.

WITNESS my Hand and Official Seal

JUNE A. WHITE
Notary Public - State of Florida
My Commission Expires Aug 15, 2009
Commission # DD119085
Bonded By National Notary Assn.

_____
Notary Public, State of Florida

JUNE A. WHITE
Printed, typed or stamped name of
Notary Public exactly as Commissioned.

☑ Personally known to me

Copies furnished to:
Richard Neubauer
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, Florida 33062

CFN # 105798159, OR BK 41480 Page 1904, Page 1 of 4, Recorded 02/17/2006 at 10:31 AM, Broward County Commission, Deputy Clerk 2030

3.

Please Return Recorded Document to:
Code Enforcement Division
Development Services Department
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

BEFORE THE SPECIAL MAGISTRATE
TOWN OF LAUDERDALE-BY-THE-SEA

ORDER IMPOSING FINE/CERTIFICATION OF LIEN

TOWN OF LAUDERDALE-BY-THE-SEA,

Petitioner

v.

Case No. 04-2218

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, FL 33062,

Respondent(s).
_____/

The above referenced case was heard on January 18, 2005. The Respondents were found in violation of the Town Code of Ordinances and given until May 18, 2005 to comply the violation. An Affidavit of Non-Compliance was issued on February 3, 2006.

The property located at 4001 Ocean Drive, Lauderdale-By-The-Sea, Florida, corresponding to Folio # 9318-04-0750, is still in violation of the Town's Code of Ordinances.

Therefore, pursuant to Section 162.09, Florida Statutes, the Special Magistrate certifies as follows:

1. The Order of January 18, 2005 required the Respondents to comply the violation by May 18, 2005, and if compliance was not met within the specified time frame, a fine of One Hundred and 00/100 Dollars ($100.00) per day, would commence and continue to accrue for each day thereafter that the violation exists.

2. The Respondent(s) violated the Order of January 18, 2005 and the Respondent(s) continue to violate the Order; therefore, the Special Magistrate imposes and certifies a fine in the amount of One Hundred and 00/100 ($100.00) per day, plus administrative costs, beginning May 18, 2005, which shall continue to accrue until the Respondents come into compliance or until a judgment is entered based upon this certification of fine. In determining the fine amount to be imposed, consideration was

FILE
FEB 13 2006
C.T.

(4)

Kenneth V. Hemmerle, II
Professional Association
Attorney at Law

SUITE E
1322 NORTHEAST FOURTH AVENUE
Fort Lauderdale, Florida 33304

TELEPHONE (954) 768-9116
TELECOPIER (954) 768-9117

E-mail: KVHIILAW@aol.com
www.hemmerlelaw.com

September 2, 2010

Town of Lauderdale- By- The- Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case Nos: Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2216 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2217 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2218 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2219 (Fire Sprinklers)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2220 (Fire Sprinklers)

Dear Sir or Madam:

This office represents Ocean Medical Center, L.L.C., ("Ocean") the owner of the property located at 4001 North Ocean Drive, Lauderdale-By-The-Sea, Florida 33308 ("the property"). This letter is an attachment to the Application for Relief from certain liens arising out of the above case numbers which were recorded by the Town of Lauderdale-By-The-Sea ("the Town") against Ocean's property. This letter will serve as an explanation as to why relief from the recorded liens should be granted to Ocean.

Ocean received title to the property on December 20, 2005 from Richard A. Neubauer and Winnie I. Neubauer, individually and as Trustees of the Richard A. Neubauer Revocable Trust Agreement dated September 8, 1982, as amended and restated. A copy of the Trustee's Deed is attached hereto.

On Ocean's property is a 1,500 gallon oxygen tank which serviced Ocean Hyperbaric Neurologic Center, Inc. ("Ocean Hyperbaric"), a tenant in Ocean's building.

Ocean Hyperbaric had a contract with Matheson TriGas, Inc. ("TriGas") to supply Ocean Hyperbaric with oxygen which is utilized in its business. The tank and all of the mechanical equipment and apparatus attached to the tank is and was owned by TriGas. In June, 2004 as part of its contractual relationship with Ocean Hyperbaric, TriGas determined that it was necessary to remove an existing 1,500 gallon oxygen tank that it had been supplying oxygen to from Ocean Medical's property and replace it with another 1,500 gallon oxygen tank. In June, 2004, TriGas, prior to removing the existing 1,500 gallon oxygen tank was told by a representative of Ocean Medical that a building permit had to be obtained from the Town as part of their replacing the oxygen tank.

During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). The Fire

Department investigated the incident. As a result of the Fire Department's investigation Ocean Medical was cited with code violations (Case Nos.: 04-2216, 04-2217 and 04-2218) for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned. Neither Ocean nor Ocean Hyperbaric own the oxygen tank.

Case Nos.: 04-2219 and 04-2220 involve the failure to obtain a permit for plumbing and electrical in connection with fire sprinklers in the building where the property is located. Ocean had hired a company by the name of Able Fire Sprinkler, Inc. to install the fire sprinklers. Ocean was told that the job had been finaled and approved by the Town. Ocean learned later that the work had not been finaled and approved by the Town, and that Able Fire Sprinkler went of business. Ocean then hired Carribbean Fire and Associates to take over and finish the job which they did.

After receiving the code violations in Case Nos.: 04-2216, 04-2217 and 04-2218 Richard Neubauer began a process of hiring construction professionals and design professionals to correct the code violations and pull the necessary permit which was not successful.

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr.Bradford D. Townsend, Planning and Zoning Administrator with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the meeting and discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the time that the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building

inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him, Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $200,000.00 in costs to come into compliance. Ocean should also be given relief from the liens in Case Nos.: 04-2219 and 04-2220 because Ocean had hired a contractor to install the fire sprinklers in the building, was subsequently told that the job had been finaled and approved by the Town, the company then went of business and Ocean was required to hire another fire sprinkler contractor to take over and finish the work.

Sincerely,

Kenneth V. Hemmerle, II

KVH,II
Enclosure

Subsection A

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

There are 5 cases encompassing the code violations pertaining to Ocean Medical Center. Two cases deal with fire sprinklers being installed without a permit (Dr. Neubauer hired a sprinkler company in 2003) and three cases deal with an oxygen tank being replaced without a permit (Dr. Neubauer hired an architect and general contractor in 2004). ALL OF WHOM WERE PAID TO CORRECT THE VIOLATIONS and were all fired by Dr. Neubauer for lack of contractual agreements in 2005. (After this year and one half delay, a new general contractor and architect and sprinkler company were hired.) Let it be known that ALL of the above construction issues were performed by "reputable" companies, whom were hired in good faith by Dr. Neubauer, in an effort to maintain a safe environment for his building and his business. All companies took the money for their work, but unbeknownst to Dr. Neubauer, neither company obtained permits for the work that they performed. The vendor, Tri-Gas told Dr. Neubauer that they did not need a permit to change out the oxygen tank since it was a replacement tank of the same size and use. Attached please find opinions stated by the new contractors who eventually completed and CO'ed the projects, A & A Construction, Caribbean Fire and Dixie Plumbing.

Fire Sprinklers

In 2003, Dr. Neubauer hires a fire sprinkler company to install sprinklers on the first floor of his building. The contractor is paid 75% of the contract price, applies for the permit, but never obtains it. Dr. Neubauer does everything in his power to obtain the permit and complete the work by hiring attorneys and filing a DBPR Complaint, all to no avail.

Dr. Neubauer hires another fire sprinkler contractor who is able to get the permit on 07/01/05, finish the work and obtain a final inspection. It took time because inspections failed since the first contractor's plans did not match up to the work done by the second contractor. Plans had to be revised. On 11/17/06, the final fire inspection is approved.

The chronology shows that Dr. Neubauer and his staff, his attorneys and the contractor kept the Town constantly abreast of the progress at all times. The Notices of Violation said to obtain a plumbing permit for the installation of the sprinklers and obtain an electrical permit for the installation of the sprinklers. The Notice **DID NOT SAY "COMPLETE THE WORK AND OBTAIN ALL INSPECTIONS"**.

On 01/18/05, the magistrate said to obtain the permit, complete the work and obtain all inspections in 120 days. This is an IMPOSSIBLE TASK given the fact that:

(1) The first contractor would not or could not obtain the permit and Dr. Neubauer had a contract with them; and

(2) The amount of time to obtain the permit and complete the work was controlled by the building officials in plan review and the contractors doing the work and obtaining the inspections.

The magistrate went beyond what the Town as asking for. THE TOWN WAS ASKING FOR "OBTAIN A PERMIT ONLY".

At all times, the building was never "red tagged" and never found to be unsafe.

When attorney Kenneth Hemmerle met with Brad Townsend in May/June, 006, he said the Town only seeks to recover it administrative costs once the owner comes into compliance and is only interested in compliance, not fines. He estimated them to be around $4,000.00 to $6,000.00. NOTE: There is a note in the Town's file for one of the cases to schedule in April, 2011 to dismiss. This was confirmed by Mr. Bowman, and the reason is that an electrical permit for the sprinklers was not required. (We have a letter to that effect from the Fire Sprinkler Company.)

On January 30, 006, a hearing was held by the magistrate to impose the fines and liens. This is where the propriety of the liens and fines were addressed.

Dr. Neubauer's prior attorney, Dan Taylor of Tripp Scott, put in his notice of appearance with the Town in May, 2005. He was in regular contact with Jeff Bowman and Kami Parker throughout 2005. There is a letter dated 12/01/05 where Mr. Taylor spoke with Mr. Bowman on 11/30/05 and they agreed not to go in front of the magistrate until the work on the fire sprinklers was complete.

Mr. Bowman sends out a Notice on January 5, 2006 to Dr. Neubauer' residence stating that the hearing in front of the magistrate is set for January 30, 006. The notice is not delivered to Dr. Neubauer by the U.S. Postal Service until February 21, 2006, THREE WEEKS AFTER THE HEARING where fines were imposed. NO NOTICE was provided to Dan Taylor – the statute requires this. NO NOTICE was delivered to a person in charge at the building – the statute requires this. Dr. Neubauer did not have any opportunity to present any witnesses or evidence as the Notice provided for because NO NOTICE WAS PROVIDED. In prior hearings before the magistrate, Dr. Neubauer was represented by attorneys, contractors and an architect. Certainly, Mr. Bowman or the magistrate could have inquired about whether notice had be provided before conducting the hearing; namely; Did the attorney get notice? Did the owner get notice? Was notice delivered to

the building to a person in charge? Did they not think it strange that NOBODY showed up, whereupon up until this time Dr. Neubauer always showed up and with an entourage of professionals of interest to the issues at hand AND totally out of character??

Oxygen Tank

All of the Notice issues/problems are pretty much the same because the Town has lumped all of the cases together, only with the tank, there were multiple hold-ups from the County and Town inspectors and multiple "mid-stream" changes from the County and the Town inspectors.

Similarly, a contractor/vendor changed out and existing tank that the vendor owned without a permit. The scope of the project was much larger than simply obtaining an "after the fact" permit and having the inspections.

Major construction was necessary, multiple tests were required and significant amounts of time and money were consumed with meetings with the building officials, changes in the plans from the County's plan review process and throughout the process, as each new inspector that became involved added new requirements that the prior inspectors did not require, causing additional new architectural plans, additional meetings with the building department, additional time and additional money. Yet despite all of the struggles, battles, time and money, Ocean Medical Center has consistently continued to "do the right thing" and meet all of the challenges thrown at them by the County and the Town, in an effort to be in compliance with the County and the Town codes and ordinances.

TRIPP SCOTT

Attorneys At Law
A Professional Association

DANIEL E. TAYLOR
(954) 760-4926
email: det@trippscott.com

May 13, 2005

VIA TELECOPIER: 954-776-1857
Lauderdale by-the-Sea
Zoning Code Compliance
Attn: Kami Parker
4501 Ocean Drive
Lauderdale-by-the-Sea, Florida 33308-3610

RE: Ocean Hyperbaric Center
Notice of Appearance
NOV Cases #04-2216,2217,2218,2219 and 2220

Dear Ms. Parker:

This letter is to serve as a notice of appearance by the law firm of Tripp Scott in the subject code violation matters concerning Ocean Hyperbaric Center. You and I have discussed the Special Master hearing scheduled for May 23, 2005 and I will contact you in the beginning of next week concerning that hearing.

Please call me if you have questions.

Sincerely,

Daniel E. Taylor
For the Firm

DET:kkb

358295v:1 991857.0002

Exhibit A

UNITED STATES POSTAL SERVICE

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Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: 7005 0390 0004 9823 6978
Detailed Results:

- **Delivered, February 21, 2006, 8:40 am, POMPANO BEACH, FL 33060**
- **Notice Left, January 07, 2006, 1:12 pm, POMPANO BEACH, FL 33062**

Track & Confirm
Enter Label/Receipt Number.
Go >

< Back Return to USPS.com Home >

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard A. Neubauer
A Trust Richard A. Neubauer
Revocable Trust
Ocean Hyperbaric Neurologic
1584 SE 19th Avenue
Lauderdale By the Sea, FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
NOH. 04-2216, 04-2217, 04-2218, 04-2219, 04-2220
mailed 1/5/06

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 0390 0004 9823 6978

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Premier Accounts
Privacy Policy

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Neubauer
Revocable Trust
1584 SE 19th Avenue
Lauderdale by the Sea, FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) W James | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
Case NO: 04-2216, 04-2217, 04-2218, 04-2219, 04-2220
mailed 2-14-04

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 2570 0000 9026 5305

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Exhibit B

A&A Construction Co.

432 NE 26 ST

Wilton Manors, FL 33305

Lic. CBCO36329

Ph: 954-565-5740

Fax 954-533-4028

To whom it may concern:

Re: Ocean Hyperbaric/Ocean Medical 5/11/11

A&A involvement on this particular job started on 2006 and still on going,
Our involvement was to secure an after the fact permit to encase the new Matheson Tri-Gas tank that was change out without a permit.

My job to secure approved plans changed so many times during the permit process due to the building department comments.
It was easier to obtain permit for the first floor reconstruction than it was to get the 06 permit approved and finaled out.

We are currently working on the 2010 permit required by the building department before the city allowed us to secure the'09 building permit.

I believe the responsibility for the occurred delays on the '06 & '09 permits was not the fault of the owners but the never ending, changing requests of the building departments.

Gary Ansley
A & A Construction
Lic #: CBCO36329

CARIBBEAN FIRE & ASSOC. INC.
3858 SW 30th Ave, Suite 109
Hollywood, FL 33312
Toll Free: 1 800 624 2281
T: 954.581.9393
F: 954.581.2896
www.CaribbeanFire.com

April 19, 2011

Tex Janulis
Ocean Medical Center, L.L.C.
4001 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)
Permit No.: 05-05945

Dear Tex:

As you know we pulled the permit for the fire sprinklers at the above commercial building for the first floor on July 1, 2005. We did not pull an electrical permit for the installation of the fire sprinkler system because it was not required. Our work has passed inspection and approved by Broward County. You informed me that the Town is claiming $101,400 in fines for the above case. You further informed me that the Town of Lauderdale-By-The-Sea through its Code Compliance Officer, Jeff Bowman, stated that it was the Town's intent to dismiss the above case because an electrical permit was not required for the installation of the fire sprinkler system. I would agree with the Town in this regard because it is not necessary for me to pull an electrical permit on any of my fire sprinkler projects to be finaled.

Very truly yours,

Sam Santiago
President

SS

DIXIE PLUMBING SERVICE, INC.

LIC. CFC-019074 TAX ID 59-1375979
1900 N. Andrews Avenue Extension, Suite B
Pompano Beach, Fl 33069
Telephone: 954 972-9595 Facsimile: 954 972-3380
E-Mail patty@dixieplumbing.com

To Whom it may concern:

Re: Ocean Hyperbaric / Ocean Medical
05-10-11

As it may be, I have never been involved in a job where the "approved plan" changed so many times during the permit process, due to building department comments. Without recreating the specific dates and times, we started this particular job in 2006 and finished in December of 2010. Our involvement was to assist in securing and "after the fact" permit for the replacement of a liquid oxygen tank that was changed out by Matheson Tri-Gas. We were not involved in the " change-out" but asked if we could get the tank change-out permitted. Notwithstanding destruction of property from the oxygen chamber fire, it was easier to obtain a permit for the first floor reconstruction than it was to get the original "06" permit approved and finaled out. The responsibility for the incurred delays, in my opinion, was not the fault of the owner, but of the ever changing request of the building department.

Albert C Korelishn

Albert C. Korelishn
CFC 019074
Dixie plumbing Service, Inc.
Member of the Broward County Board of Rules an Appeals from 1980 to 2010
Member of the Construction Industry Licensing Board since 2010 to present

Subsection B & C

CHRONOLOGY

Case No.: 04-2216 (Electrical Permit Required for Installation of new oxygen tank)
Case No.: 04-2217 (Plumbing Permit Required for Installation of new oxygen tank)
Case No.: 04-2218 (Building Permit Required for Installation of new oxygen tank)

1983

Records Dating Back to 1983 show that Oxygen Tank is legally on the Property as of 1983

2/18/83 – Permit no. 383 is issued by the Town of Lauderdale By-The-Sea to remove an existing oxygen tank, install a new one and cut roof opening to leave open area.

2002

6/1/02 – Matheson Tri-Gas and Ocean Hyperbaric Center, Inc. sign a product supply agreement. Under this agreement Matheson Tri-Gas owns and maintains the 1,500 gallon oxygen tank and equipment on the property and leases the system to Ocean Hyperbaric Center, Inc. Under the agreement Matheson Tri-Gas supplies liquid oxygen to Ocean Hyperbaric Center, Inc. Ocean Hyperbaric Center, Inc. pays Matheson Tri-Gas a monthly lease fee for the tank and the equipment and a price per cubic foot for the liquid oxygen which Matheson Tri-Gas delivers.

2004

6/17/04 – On June 17, 2004 there existed an MVE 1500 gallon oxygen tank (NB 5665). Matheson Tri-Gas determined that it was necessary to change out the existing 1,500 gallon oxygen tank which they owned and replace it with a new Taylor Wharton 1,500 gallon oxygen tank (NB 52912.2800). Matheson Tri-Gas had the right under the contract to change out the equipment if they determined that it was necessary. Prior to removing the existing tank and replacing it with a new one a representative with Dr. Neubauer's office (Tex Janulis) stated to Ken Ward of Matheson Tri-Gas that a permit needed to be obtained from the Town of Lauderdale-By-The-Sea.

6/17/04 – On June 17, 2004 personnel from Matheson Tri-Gas (Tri-Gas) changed out the existing oxygen tank. During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). **The Fire Department investigated the incident and finding that there was no hazard or danger allowed Tri-Gas to continue with their change out of the tank. Dr. Neubauer did not know that TriGas would fail to follow the code and pull the necessary building permits to change out the existing tank.**

6/18/04 – **Medical Gas Maintenance & Certification, Inc., 12245 62nd Street N., Suite 304, Largo, FL 33773 performs an inspection and test of the tank and certifies that the installation of the liquid tank and reserve manifold are up to NFPA 99c Code.** All samples taken were clean and particulate free.

9/10/04 – Vince Reilly, Administrative Director with Dr. Neubauer's office writes a letter to Ken Ward with Matheson Tri-Gas stating that Broward County had issued a Notice of Violation. **He states in his letter, "as requested by Broward County" you must obtain a building permit. He further states that "our business may be shut down unless the situation is rectified."**

10/8/04 – Dr. Neubauer's attorney, Jacob Arpreister sends a letter to Joe Fahey, Assistant Chief Code Compliance Officer with Broward County Building Code Services. In his letter Mr. Armpreister confirms that Broward County will not take action to shut down Dr. Neubauer's operation providing meaningful progress is made toward issuance of the appropriate permits and all necessary inspections are affirmative.

11/4/04 – Tri-Gas has Albert C. Korelishn of Dixie Plumbing Service, Inc., 1900 N. Andrews Avenue Ext., Suite B, Pompano Beach, FL 33069, contact Dr. Neubauer to pull the after-the-fact permit.

11/4/04 – A meeting takes place between Albert Korelishn, Joe Fahey, Assistant Chief Code Compliance Officer with Broward County and Tex Janulis, a representative for Dr. Neubauer.

11/4/04 – Joe Fahey, Assistant Chief Code Compliance Officer with Broward County writes a letter to Albert Korelishn of Dixie Plumbing Service, Inc. stating that the med gas area around the oxygen tank requires a one hour enclosure. He states that the source valve location must be shown on the piping diagram. He continues and states that since the system has an automatic change over and reserve supply, an alarm is required. He states that this is to comply with Level 1 requirements. Electrical work is required. Mr. Fahey states that a complete piping diagram showing valves, stub outs, alarm sensors, regulators and gauges is required. He states it necessary to show point of discharge for regulators. He states it is necessary to show other points of use for O2, if any. He further stated that NFPA 50 – Bulk O2 requires that the area under the supply vehicles must be non-combustible. He stated that the overhead electrical wires are a concern, however, if they are judged to be dangerous then they can be relocated. Mr. Fahey noted that the fill and fill vent are to be 50' from the patients. He also noted that an approved manifold for cylinder gases is also required.

11/11/04 – Dr. Neubauer signs an agreement with Integrated Design Ideas & Services, Inc. to draft a set of plans of the property – existing conditions, consisting of a site plan, first, second and third floor plans for a fee of $1,500.00.

11/30/04 – Plans finished by Integrated Design Ideas & Services, Inc.

12/2/04 – Notices of Violation are issued by the Town in Case No.: 04-2216 (Electrical Permit Required for Installation of new oxygen tank); Case No.: 04-2217 (Plumbing Permit Required for Installation of new oxygen tank); and Case No.: 04-2218 (Building Permit Required for Installation of new oxygen tank). Under each of these 3 Notices of Violation the corrective action is to obtain the electrical permit, the plumbing permit and the building permit and nothing more.

12/3/04 – Vince Reilly sends a fax to Dan McNeal of PVHO2 Systems, Inc. stating that Sheldon Frank of Electric Service, Inc. will contact him concerning the electrical work on the oxygen tank. He states that Tri-Gas says that Ocean Hyperbaric must address problems before they can rectify code violations.

12/16/04 – Roberto Valencia Architect, P.A. writes a letter to Kam Parker, Code Compliance Officer, stating that the owners of the building have retained their services to assist them with the existing code issues as set forth in the Notices of Violation dated 12/2/04. The architect requested a sufficient amount of time to review the existing conditions and pending violations. The architect requested 30 days to conduct their professional services and prepare a plan and a time schedule to resolve the code upgrade issues cited.

As a result of the Fire Department's investigation Ocean Medical was cited with code violations for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned and removing the old one.

2005

1/18/05 – A special magistrate hearing takes place on **Case No.: 04-2216 (Obtain electrical permit for installation of new oxygen tank and piping); Case No.: 04-2217 (Obtain plumbing permit for the installation of a new oxygen tank and piping); and Case No.: 04-2218 (Obtain building permit for the installation of a new oxygen tank and piping).** In the minutes of the hearing, Code Compliance Officer, Kam Parker, was present on behalf of the Town. Officer Parker stated that since the notice the Respondent (Dr. Neubauer) has been diligently trying to accomplish **achieving the permits. Officer Parker requested an extension of 90 days to accomplish achieving the permits. Officer Parker requested an extension of 90 days to complete the permitting,** a $150 administrative fee and $100 fine for each violation. Roberto Valencia, President of Roberto Valencia Architect, P.A. was present on behalf of Dr. Neubauer. Mr. Valencia stated to the special magistrate that currently documents are being prepared with a consulting engineer that will be submitted to the Town for the necessary permits for the completed installation of the oxygen tank. D. Neubauer is given 120 days to deal with permitting, completion of the work and inspection. The Special Master suggested that communication be maintained with the Code Officer as to the progress of the resolution of the issues and asked that Mr. Valencia relay this suggestion to the property owner.

2/9/05 – Tex Janulis, a representative of Dr. Neubauer, faxes to Fred Pearlman, Broward County inspector, copies of the minutes from the hearing before the special master dated January 18, 2005.

2/18/05 – Dr. Neubauer retains Tumin Engineering Company, P.O. Box 936585, Margate, Florida 33093, to perform a Code Compliance and Life Safety Evaluation report on the building.

2/28/05 – Vince Reilly meets with Tumin Engineering, Tex Janulis and Dr. Neubauer to discuss compliance with the code violations. Tumin Engineering will provide written recommendations.

3/1/05 – Vince Reilly speaks with SprinklerMatic about coming in to complete the work which had been started by Able Fire Sprinkler, Inc.

3/3/05 – Tumin Engineering provides written recommendations to Vince Reilly on the code compliance issues.

3/3/05 – On March 3, 2005 Tumin Engineering Company, P.O. Box 936585, Margate, Florida 33093 issues its Code Compliance and Life Safety Evaluation report on the building. 1.) Tumin reports that according to the oxygen vendor additional equipment is necessary for the system. Tumin reports that a mechanical engineer should be retained to verify the additional equipment and space. 2.) Tumin reports that the top portion of the enclosure is not considered a two-hour rated wall assembly and therefore needs to be reconstructed. Tumin reports that there is inadequate space on the site to relocate the tank in lieu of the protective enclosure. Tumin reports that an architect should design the enclosure. 3.) Tumin reports that the delivery area is required to be non-combustible and needs to be replaced with concrete. 4.) Tumin reports that the pressure relief device discharging piping outlets, filling and vent connections shall be located more than 50 feet from the building entrance.

3/7/05 – Attorney Armpreister contacts Able Fire Sprinkler, Inc. and Broward County Code compliance officer, Jim Fahey regarding the status of the permit.

3/18/05 – Vince Reilly sends an e-mail to Kami Parker at Lauderdale By The Sea advising that he has placed a call to John Burton regarding the designated response level for Ocean Medical Center. He asks Ms. Parker what entity designates the level and whether it can be arbitrated.

3/28/05 – A meeting is scheduled for March 31, 2005 at 1:00 p.m. with Able Fire Sprinkler, Wilson Hernandez, P.A. (architect), attorney Armpreister, Matheson Tri-Gas, Electrical Service, Inc., Tex Janulis and Vince Reilly.

4/23/05 – Ron Gettler, Medical Gas Specialist with Mercury Medical issues a temporary Certificate of Compliance stating that the medical gas piping system of Ocean Hyperbaric complies with the Code with respect to various sections of NFPA 99 (1999).

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr. Townsend with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean

hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $150,000.00 in costs to come into compliance.

4/12/05 – Attorney Armpreister states to Vince Reilly that he will send a letter to Broward County and Lauderdale By The Sea Code Compliance department requesting a 120-day extension due to the County's hold up with the permits.

4/27/05 – Atttorney Armpreister writes a letter to Kami Parker, Code Compliance Officer, stating that Ocean Hyperbaric continues to work toward the resolution of the code issues. He states that Broward County Building Code Services Division has not yet rendered a decision with regard to the application for permit regarding the fire sprinklers. He states that Able Fire Sprinkler had previously submitted an application for permit to the County for review. The County requested additional information and a further revised application package was submitted earlier this month. He states that upon receipt of the fire sprinkler permit from the County Ocean Hyperbaric is ready to commence work. He states that Ocean Hyperbaric has been diligently working toward resolution of the outstanding issues and is requesting an

additional 90 day extension beyond the 120-day deadline as the projects cannot be completed without County approval.

5/2/05 – Attorney Armpreister writes a letter to Kami Parker requesting a hearing before the special magistrate to request an extension of time within which to complete the necessary revisions required of Ocean Hyperbaric regarding the installation of the fire sprinklers and oxygen tank in all of the cases.

5/05 – Kami Parker writes a letter to Attorney Jacob Armpreister where she states that she does not feel that an extension of 90 days on top of the original 120 days is warranted. She states the compliance date will remain June 18, 2005. She states that Ocean Hyperbaric may request a hearing once all permits have been completed and inspected to mitigate the fine.

In May, 2005 Dr. Neubauer retained the services of attorney, Dan Taylor of Tripp Scott. This decision was due to the fact that Able Fire Sprinkler, Inc. still had not completed the work and obtained a final inspection.

5/11/05 – Town of Lauderdale By The Sea issues a notice of hearing/violation in Case Nos.: 04-2219 (Plumbing permit required for installation of fire sprinklers) and 04-2220 (Electrical permit required for installation of fire sprinklers). Hearing is set for May 23, 2005 at 3:00 p.m.

5/11/05 – Dan Taylor with Tripp Scott speaks with the code compliance department and assures them everything was being done to resolve the code issues.

5/13/05 – Attorney Dan Taylor writes a letter to Kami Parker. He states that the letter will serve as his Notice of Appearance in the code violation matters, Cases #04-2216, 2217, 2218, 2219 and 2220.

5/17/05 – Attorney Jacob Armpreister writes a letter to Jeff Bowman. He states that Dan Taylor of Tripp Scott will be handling the case and that this letter confirms that his firm is handling this matter.

5/17/05 – Attorney Dan Taylor writes a letter to Kami Parker requesting that the May 23, 2005 hearing before the special master be rescheduled until after June 18, 2005 and the permits are issued and work inspected. He states that the purpose of the hearing was to reconsider the imposition nof fines and request an extension of the time for compliance.

5/19/05 – Letter from Kami Parker stating that Ocean Hyperbaric Center was removed from the code board hearing scheduled for May 23, 2005.

5/20/05 – Attorney Dan Taylor writes a letter to Kami Parker. He encloses a letter from Quinn I. Miklos, R.A. of Miklos and Associates, P.A. Architects and Planners, the architect on the project. The architect estimates that his work will be completed within 10 days from May 23, 2005. He states that he spoke with John Wagner of Able Fire Sprinkler and he advises that he will resubmit the permit application this afternoon. He states that Ocean Hyperbaric is making every effort to correct the situation that its contractors created.

6/13/05 – Attorney Dan Taylor of Tripp Scott writes a letter to Kami Parker. The purpose of the letter was to update her on the progress made to comply with the Special Master order. He states that regarding the installation of the oxygen tank, Lee Development Construction and James E. Lee, the owner, are responsible for obtaining the building, electrical and plumbing permits. He states that Leo of I.T. Engineers, the structural engineer told him that the engineer's plans would be dropped off to Ocean Hyperbaric so that the plans could be submitted to the City's building department by June 14th. He stated that Robert Frank of Electrical Services, Inc. is working with Lee Development on the electrical permit as is Deveren Peterkin, another engineer consultant. The delay in getting the permit applications to the City is getting all of the contractors and consultants coordinated. The sprinklers system permits have more problematic as John Wagner of Able Fire Sprinkler did not do the things he was going to do and failed to obtain the permit. Mr. Taylor states in his letter that Ocean Hyperbaric expected TriGas to obtain a permit as well as the sprinkler contractor. He says it is costing Ocean Hyperbaric tens of thousands of dollars to correct a situation that it did not cause.

6/28/05 – Attorney Dan Taylor of Tripp Scott sends a letter to Kami Parker, of Zoning Code Compliance. He states that the contractors for the oxygen tank, Jimmy Lee and the sprinkler system, Caribbean, submitted the permit applications to the City. He stated he spoke with the contractors and the permits are still undergoing review. **He stated that contractors are calling regularly to check on the status of the permits but they have been told it could take 4-5 weeks. He states that the permit applications were submitted prior to the June 18th compliance date but that he is concerned that we can no longer control the time for review.**

7/25/05 – Broward County Plan Review (Plumbing) issues comments on the plumbing aspects of the plans – Permit No.: 05-07084.

7/29/05 – Julio C. Vida, P.E. of Leonardo Naveiras, Inc. sends invoice of $3,600.00 for preparation of permit drawings for the oxygen tank..

8/2/05 – Broward County Plan Review (Mechanical) issues comments on the mechanical aspects of the plans – Permit No.: 05-07084.

8/5/05 – Broward County Plan Review (Electrical) issues comments on the electrical aspects of the plans – Permit No.: 05-07084.

8/31/05 – Broward County Plan Review (Structural) issues comments on the structural aspects of the plans – Permit No.: 05-07084.

10/18/05 – Attorney Dan Taylor writes a letter to Kami Parker, Zoning Code Compliance. He updates her on the progress of construction to come into compliance with the notices of violation. He spoke with Caribbean Fire and the interior work has been completed but a new part for the exterior work is needed. The part was ordered and as soon as it is installed Caribbean will call for an inspection. **He states that the work by Lee Construction Development has run into obstacles as a result of the County's comments to the plans.** Tri-Gas's attempt to install the tank without the appropriate permits has resulted in what appears to be the need to completely renovate the oxygen portion of the facility. **He states that since the sprinkler notices of violation will be resolved before the oxygen tank he states that it**

is advisable to address them separately. He states that he will contact her in order to schedule a hearing before the special master.

12/1/05 – Attorney Dan Taylor writes a letter to Jeff Bowman confirming their telephone conference on November 30, 2005. Dan Taylor had spoken with Caribbean Fire and was told the installation was finished, most of the leaks in the previously installed sprinkler lines had been repaired. He was told as soon as the leaks are fixed Caribbean Fire will call for an inspection. Mr. Taylor states that he agrees with Mr. Bowman to go before the special magistrate as soon as the matter is finished. Mr. Taylor states in his letter that Jimmy Lee at Lee Construction is handling the oxygen tank and the work has become more complicated. He states that it is no longer a matter of obtaining an after-the-fact building and plumbing permit, completing the work and passing a final inspection. He states that after going through plan review at the county it is clear that the present oxygen pad location requires major renovation or replacement and therefore a whole new set of plans may be necessary and if that is the case he will request a meeting to show staff the proposed plan prior to coming in for approvals. He should know within the next couple of weeks.

2006

1/30/06 – The Town holds a hearing before the special magistrate on January 30, 2006 at 2:30 p.m. in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220 and issues an Order Imposing Fine/Certification of Lien. NO NOTICE OF THIS HEARING WAS PROVIDED TO DR. NEAUBAUER'S ATTORNEY, DAN TAYLOR OR TO DR. NEUBAUER prior to the date of the hearing. The Notice of Hearing was not delivered to Dr. Neubauer until February 21, 2006, some 3 weeks after the January 30, 2006 hearing. In the Notice of Hearing it states that any request for continuance may be made in writing to the Code Compliance Officer within 10 days. The Notice of Hearing states that each party has the right to call and examine witnesses. It states that any party represented by counsel must file a Notice of Appearance at least 5 days before the hearing date with the Town. It states that if any person desires to appeal any decision regarding any matter considered at the hearing that the person will need a record of the proceedings and that any appeal must be made within 30 days. NO NOTICE OF THE JANUARY 30, 2006 HEARING WAS LEFT WITH THE MANAGER OR OTHER PERSON IN CHARGE AT THE BUILDING LOCATED AT 4001 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA AS REQUIRED BY SECTION 162.12 (1) (d) FLA. STAT. As a result of the Town providing no notice of the January 30, 2006 hearing to attorney Dan Taylor, and because no notice of the hearing was left with a manager or other person in charge at the commercial premises and because Dr. Neubauer did not receive the notice until February 21, 2006 the property owner did not attend the January 30, 2006 hearing and was therefore denied procedural due process of law.

3/25/06 – Dr. Neubauer states to Vince Reilly, Jimmy Lee and Quinn Miklos that he is not in favor of moving the tank enclosure because Town officials state that no permit ever existed which was not correct and he requests that William Tex Janulis take over management of the project.

3/28/06 – Dr. Neubauer authorizes Tex Janulis to review all of the records with respect to the Building at the Town of Lauderdale-By-The-Sea and Broward County.

4/11/06 – Attorney Ken Hemmerle meets with Tex Janulis to go over issues relating to the fines and liens pertaining to the installation of an oxygen tank without a building permit.

5/19/06 – Attorneys Ken Hemmerle and Richard McCusker meet with county building official regarding the code violations.

5/23/06 – Ken Hemmerle speaks with David Burgueno at the County.

5/26/06 Ken Hemmerle and Richard McCusker meet with Bradford Townsend, the Planning and Zoning Director with the Town of Lauderdale By The Sea to discuss the liens and the oxygen tank. It is explained to Mr. Townsend that the 1,500 gallon oxygen tank which was installed in June, 2004 was a change out of a previously existing 1,500 gallon oxygen tank which had been there for years. It was also explained to Mr. Townsend that a building permit had been obtained back in 1983 (over 20 years prior) for the oxygen tank and the structure housing it. Mr. Townsend explained that he required the concrete slab which the tank sat on tested to be sure that the slab was of sufficient strength to hold the tank. He also stated that he required the soil underneath the concrete slab tested to be sure that the soil could hold the slab and the 1,500 gallon oxygen tank resting on the slab. Mr. Townsend also stated to Ken Hemmerle and Richard McCusker that once the tests were completed and the after-the-fact permit issued for the tank the Town would resolve the liens for the Town's administrative costs which he estimated to be between $4,000 and $6,000.

6/2/06 – Ken Hemmerle speaks with an attorney for Matheson TriGas, the owner of the oxygen tank regarding weights and mechanical drawings for the oxygen tank.

6/6/06 – Ken Hemmerle speaks with an engineering firm – Engineering & Inspections Unlimited in Fort Lauderdale about x-rays of the slab.

6/6/06 – Ken Hemmerle speaks with Robert Schuler of Miami regarding x-rays of the slab and the cost.

6/12/06 – Ken Hemmerle speaks with engineer, Fitz Harris about x-ray machine.

7/11/06 – Ken Hemmerle confers with Tex Janulis on the soil and concrete slab tests.

7/12/06 – Fitz A. Harris, P.E. Sructural Engineer agrees to provide structural engineering services consisting of inspection of the existing structure to determine member sizes and amounts of reinforcements utilized for the support slab and enclosure of the oxygen tank, evaluation of soil and concrete tests, structural engineering drawings showing details of the existing structure and modifications to be carried out, special inspection of the reinforced masonry construction.

7/31/06 – Nutting Engineers of Florida, Inc. cut and test concrete cores of slab upon which oxygen tank sits at a cost of $75.00.

8/8/06 – Ken Hemmerle speaks with Broward County Code Enforcement regarding special/independent inspections.

8/23/06 – Ken Hemmerle and Richard McCusker meet with Tex Janulis regarding the plans prepared by engineer, Fitz Harris.

8/24/06 – Ken Hemmerle has a telephone conference with Brad Townsend from Lauderdale By The Sea and sets up a meeting.

8/25/06 – Ken Hemmerle and Richard McCusker meet with Brad Townsend and go over with him the results of the slab and soil tests.

9/5/06 – Ken Hemmerle has a telephone conference with Brad Townsend from Lauderdale By The Sea.

9/6/06 – Ken Hemmerle has a telephone conference with Marge at Lauderdale By The Sea and a telephone conference with Sara Jean at Broward County regarding the old permit number.

9/6/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos, Tex Janulis and engineer, Fitz Harris regarding comments from the County Plan review under the permit application for the tank from 2005.

10/6/06 – Ken Hemmerle has a meeting with Tex Janulis regarding the plumber and the plumbing plans for the tank.

10/10/06 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing Service, Inc., the plumbing contractor who will pull the after the fact permit for the oxygen tank. Ken Hemmerle speaks to him about the fact that the project is a repair project of an existing facility.

10/13/06 – Ken Hemmerle meets with Tex Janulis, Robert Frank, the electrical contractor and Albert Korelishn, the plumbing contractor regarding the plumbing diagrams.

10/18/06 – Ken Hemmerle has a telephone conference with Albert Korelishn and Tex Janulis about the meeting set for Tuesday.

10/19/06 – Ken Hemmerle has a telephone conference with Albert Korelishn.

10/19/06 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas regarding the meeting set for October 24, 2006 which will consist of a discussion of the oxygen tank and the enclosure meeting building code requirements

10/23/06 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas.

10/24/06 – Ken Hemmerle meets with Tex Janulis, Albert Korelishn from Dixie Plumbing, David Henry and Joe Fahey from Broward County regarding the oxygen tank, piping and the structure meeting the building code requirements.

10/27/06 – Ken Hemmerle has a conference with Tex Janulis and structural engineer, Fitz Harris.

11/8/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris.

11/8/06 – Ken Hemmerle has a telephone conference with Albert Korelishn from Dixie Plumbing regarding the status of completing the plumbing plans for the oxygen tank.

11/9/06 – Ken Hemmerle has a conference with Tex Janulis regarding progress on the plans and drawings for the oxygen tank and enclosure.

11/13/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris and a telephone conference with Albert Korelishn from Dixie Plumbing.

11/27/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos about the drawings for the tank.

11/28/06 – Ken Hemmerle travels to architect, Quinn Miklos' office in Boca Raton to meet and discuss the plans and drawings for the oxygen tank.

11/30/06 – Ken Hemmerle has a conference with structural engineer, Fitz Harris and Tex Janulis regarding the plans and drawings for the oxygen tank.

12/4/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the electrician's plans for the oxygen tank.

12/4/06 – Ken Hemmerle places a call to the electrician about his plans for the oxygen tank.

12/8/06 – Ken Hemmerle has a telephone conference with architect, Quinn Miklos, a telephone conference with the electrician and a telephone conference with Leonardo Naveiras, Inc. the professional engineer responsible for preparing and sealing the electrical and gas drawings for the oxygen tank.

12/9/06 – Ken Hemmerle assembles the finished plans for pick up by Tex Janulis.

12/11/06 – Ken Hemmerle has a telephone conference with with Tex Janulis and Leonardo Naveiras, Inc. regarding the gas piping and electrical plans.

12/12/06 – Ken Hemmerle has a conference with Tex Janulis and the engineer at the Ocean Medical building.

12/12/06 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris about the plans for the enclosure of the oxygen tank and a telephone conference with Tex Janulis.

12/12/06 – Ken Hemmerle has a telephone conference with Albert Korelishn with Dixie Plumbing, a telephone conference with Sheldon Frank, one of the electricians from Electric Service Company, the electrical contractor and a conference with Tex Janulis all regarding the finalization of the plans and drawings for the structure around the tank, the plans for the gas piping and the plans for the electrical to submit to the Town for the building permit.

12/15/06 – Ken Hemmerle has a telephone conference with engineer, Darin Cudmore with Leonardo Naveiras, Inc. about the piping and electrical drawings.

12/18/06 – Ken Hemmerle has a conference with Tex Janulis to review the finished plans. Ken Hemmerle instructs his staff to set up a meeting at the Town of Lauderdale By The Sea.

12/20/06 – Ken Hemmerle has a telephone conference with Kami Parker at the Town of Lauderdale By The Sea regarding the plans.

12/20/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding submitting the plans for permit tomorrow 12/21/06.

12/22/06 – Ken Hemmerle travels to the Town of Lauderdale By The Sea to submit for a permit the structural, electrical and plumbing plans for the oxygen tank.

12/26/06 – Ken Hemmerle has a telephone conference with the Health Department and a telephone conference with the Agency for Health Care Administration regarding certain requirements for obtaining the permit.

12/27/06 – Ken Hemmerle has a conference with Albert Korelishn, with Dixie Plumbing, the plumbing contractor to sign the plumbing permit application for the oxygen tank.

12/27/06 – Ken Hemmerle has a conference with Robert Frank of Electric Service, electrical contractor to sign the electrical permit application for the oxygen tank.

12/27/06 – Ken Hemmerle has a conference with the Department of Environmental Protection regarding the approval of the plans for the oxygen tank to be submitted for issuance of the permit. Ken Hemmerle pays the Broward County Department of Planning a $35.00 fee for their review and approval of the plans.

12/28/06 – Ken Hemmerle has a telephone conference with the Health Department regarding certain requirements for permitting.

12/28/06 – Ken Hemmerle has a telephone conference with Medical Quality Assurance regarding the application for the permit for the oxygen tank.

12/28/06 – Ken Hemmerle has a telephone conference with Richard Parham at the Broward County Health Department.

12/28/06 – Ken Hemmerle has a telephone conference with Arlene Davis at ACHA, Agency for Health Care Administration.

12/28/06 – Ken Hemmerle has a telephone conference with Tex Janulis regarding an update as to the finalization of the package for permitting.

12/29/06 – Ken Hemmerle has a conference with the Town of Lauderdale By The Sea Building Department to submit the plans and applications for permit.

12/29/06 – Ken Hemmerle has a conference with Dr. Neubauer and Tex Janulis at the Town of Lauderdale By The Sea Building Department to submit the plans and applications for permit.

2007

1/15/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the status of the plans in plan review. The plans are in planning and zoning.

1/15/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/19/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/19/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/24/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/24/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/25/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/25/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea as to the status of the plans.

1/26/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea. Jim Bell states that it is OK to go with repair existing structure.

1/26/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea where Jim Bell states that it is OK to go with repair existing structure.

1/26/07 – Ken Hemmerle has a telephone conference with Albert Korelishn with Dixie Plumbing, the plumbing contractor, regarding his telephone conference with Jim Bell at the Town of Lauderdale By The Sea where Jim Bell states that it is OK to go with repair existing structure.

1/29/07 – Ken Hemmerle has a telephone conference with Tex Janulis and a conference call with Albert Korelishn with Dixie Plumbing, the plumbing contractor.

2/1/07 – Ken Hemmerle has telephone conferences with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding alterations to expanding the existing oxygen tank structure to the south of the oxygen tank enclosure to house the vaporizers that are presently located in the oxygen tank enclosure.

2/2/07 – Ken Hemmerle has a telephone conference with Jim Bell at the Town of Lauderdale By The Sea regarding submitting plans to expand the oxygen tank structure to accommodate the vaporizers to the south of the current structure.

2/2/07 – Ken Hemmerle has a conference with Tex Janulis – go over the plans regarding an expanded structure to accommodate the vaporizers.

2/2/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding the dimensions of the shed which is adjacent to the oxygen tank structure which is to be removed and replaced with a concrete structure to house the vaporizers which are connected to the oxygen tank.

2/6/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, on the status of the plans depicting the location of the vaporizers to the south of the oxygen tank.

2/8/07 – Ken Hemmerle has a telephone conference with Albert Korelishn of Dixie Plumbing, the plumbing contractor, regarding Albert Korelishn's telephone conference with David Henry of Matheson TriGas to the effect that the size of the shed to the south of the tank cannot be expanded.

2/9/07 – Ken Hemmerle has a telephone conference with structural engineer, Fitz Harris about redoing the drawings so as to not expand the shed.

2/13/07 – Ken Hemmerle has conferences with structural engineer, Fitz Harris, Tex Janulis and Albert Korelishn regarding the drawings which Albert Korelishn prepared for the vaporizers which are to be located to the south of the oxygen tank.

2/16/07 – Ken Hemmerle has a telephone conference with Albert Korelishn about the reserve oxygen tanks.

2/17/07 – Ken Hemmerle has telephone conferences with Albert Korelishn and Tex Janulis – David Henry of Matheson TriGas states that the reserve tanks cannot go inside the building.

2/20/07 – Ken Hemmerle has a telephone conference with David Henry of Matheson TriGas regarding the reserve tanks.

2/24/07 – Ken Hemmerle has a telephone conference with Tex Janulis – the client will go forward with the removal of the shed and expansion of the area necessary for the vaporizers.

3/2/07 – Ken Hemmerle has telephone conferences with structural engineer, Fitz Harris, Tex Janulis and Albert Korelishn about opening a new area just north of the oxygen tank structure to accommodate the reserve tanks.

3/2/07 – Ken Hemmerle places a call to the attorney for Matheson TriGas.

3/2/07 – Ken Hemmerle has a telephone conference with Albert Korelishn about the reserve oxygen tank bottles being placed on a shelf attached to the structure/building housing the oxygen tank.

3/5/07 – Ken Hemmerle has telephone conferences with Albert Korelishn, Tex Janulis and Jim Bell from Lauderdale By The Sea regarding the reserve portable oxygen tanks.

3/7/07 – Ken Hemmerle has a telephone conference with engineer Fitz Harris, and Tex Janulis about the portable reserve tanks being placed in an area just north of the enclosure housing the tank with a fence around the tanks.

3/19/07 – Ken Hemmerle has a telephone conference with attorney for Matheson TriGas about whether a portable oxygen system is required for this doctor's office.

3/27/07 – Ken Hemmerle has telephone conferences with attorney for Matheson TriGas, Darren Cudmore with engineer Leonardo Naveiras' office and Tex Janulis that Matheson TriGas stated that the reserve oxygen system is not required.

3/28/07 – Ken Hemmerle receives an e-mail from the attorney for Matheson TriGas and sends a reply e-mail regarding confirmation that portable reserve oxygen tanks are not required.

4/5/07 – Ken Hemmerle has a telephone conference with Jim Bell of Lauderdale By The Sea.

4/6/07 – Ken Hemmerle has a meeting at the Building Department of Lauderdale By The Sea and files the revised plans.

4/18/07 – Ken Hemmerle reviews an e-mail from Broward County Building Department regarding plan review comments to the plans. He forwards a copy of the e-mail to Tex Janulis. Ken Hemmerle has a conference with Tex Janulis about the County's comments on the plans and a telephone conference with Fitz Harris about the County's comments on the plans.

4/18/07 – Ken Hemmerle assembles the plans to be forwarded to Albert Korelishn and engineer Leonardo Naveiras for corrections based upon the plan review comments from Broward County.

5/3/07 – Ken Hemmerle has a conference with his staff about a telephone conference with Lauderdale By The Sea regarding the comments to the plans. Ken Hemmerle conferes with Tex Janulis about this.

5/7/07 – Ken Hemmerle has a conference with Tex Janulis about the plan review comments from Broward County.

5/7/07 – Ken Hemmerle has a telephone conference with engineer Leonardo Naveirs' office about the plan review comments from Broward County.

5/7/07 – Ken Hemmerle has a telephone conference with NFPA and conducts research online at NFPA.org.

5/21/07 – Ken Hemmerle has a telephone conference with Captain Nance with Broward Fire about a handicap parking space near the oxygen tank enclosure.

5/21/07 – Ken Hemmerle has a telephone conference with engineer Fitz Harris about removing (whiting out) the parking space on the plans.

8/14/07 – Ken Hemmerle has a conference with Tex Janulis about him getting the vaporizers installed, doing the plumbing work except connecting the electrical with no down time.

8/14/07 – Ken Hemmerle has a telephone conference with the attorney for Matheson TriGas and Tex Janulis.

8/22/07 - Ken Hemmerle sends an e-mail to the attorney for Matheson TriGas.

8/22/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding status of the project.

11/1/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding status of the project.

12/1/07 – Ken Hemmerle sends an e-mail to attorney for Matheson TriGas regarding manifold and flow switch.

12/11/07 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the report of the electrician. Ken Hemmerle reviews the fax and e-mails it to the attorney for Matheson TriGas.

2008

1/10/08 – Ken Hemmerle has a telephone conference with Tex Janulis about the portable oxygen reserve system.

1/10/08 – Ken Hemmerle has a telephone conference with engineer Leonardo Naveiras' office about the portable oxygen reserve system. Ken Hemmerle sends an e-mail to engineer Leonardo Naveiras' office.

1/19/08 – Ken Hemmerle receives and reviews an e-mail from engineer Leonardo Naveiras' office and sends an e-mail to the attorney for Matheson TriGas.

2/8/08 – Ken Hemmerle has a telephone conference with Albert Korelishn at Dixie Plumbing.

2/8/08 – Ken Hemmerle has telephone conferences with Tex Janulis regarding his telephone conference with Dave Henry at Matheson TriGas and Albert Korelishn at Dixie Plumbing.

3/3/08 – Ken Hemmerle receives and reviews e-mail from engineer, Leonardo Naveiras' office.

3/5/08 – Ken Hemmerle has a conference with Tex Janulis about permit reinstatement.

4/17/08 – Ken Hemmerle has a telephone conference with Tex Janulis and Vince Reilly about certification issues of Matheson TriGas.

5/5/08 – Ken Hemmerle has telephone conferences with Albert Korelishn and Tex Janulis regarding the meeting which is scheduled with the Chief Plumbing Inspector for Wednesday at 11:00 a.m.

5/7/08 – Ken Hemmerle attends a meeting with Albert Korelishn, the plumber, Tex Janulis, Robert Frank, the electrician and Jim Michaels, the plumbing inspector from Broward County.

6/12/08 – Ken Hemmerle has a telephone conference with Tex Janulis and sends an e-mail to engineer Leonardo Naveiras' office that the portable oxygen reserve system is not an issue.

6/12/08 – Ken Hemmerle has a telephone conference with Tex Janulis and sends an e-mail to engineer Leonardo Naveiras' office regarding the clean gas report. Ken Hemmerle instructs his staff to fax the clean gas report to Jim Michaels, the Chief Plumbing Inspector at Broward County.

7/9/08 – Ken Hemmerle has a telephone conference with Tex Janulis regarding the status of plan changes and final inspection.

8/27/08 – Ken Hemmerle has a conference with Tex Janulis and Albert Korelishn. Ken Hemmerle places a call top Jim Michael, Chief Plumbing Inspector with Broward County.

8/28/08 – Ken Hemmerle reviews the file and has a conference with Tex Janulis and a telephone conference with Albert Korelishn with Dixie Plumbing.

8/29/08 – Ken Hemmerle has a telephone conference with Julio Bercenio, Chief Building Official for Town of Lauderdale-By-The-Sea regarding plan issues.

9/1/08 – Ken Hemmerle prepares an agenda for the meeting scheduled with the Town of Lauderdale By The Sea and Broward County building officials for tomorrow. E-mail the agenda to Tex Janulis.

9/2/08 – Ken Hemmerle attends meeting with the Town of Lauderdale By The Sea and Broward County building officials for tomorrow. Those in attendance are: Albert Korelishn, plumbing contractor, Tex Janulis, owner's representative, Robert Frank, electrical contractor, Steve Pilla, Broward County inspector, Jim Michaels, Broward County Inspector, Kami Parker, Code Officer with Town of Lauderdale By The Sea, Robert Nance with Broward County Fire Department and Shirleen Smith of the Broward County Fire Department.

9/3/08 Ken Hemmerle has a telephone conference with Albert Korelishn, review his notes from the meeting with the building officials. Ken Hemmerle e-mail the recap of the meeting to engineer Leonardo Naveiras' office, Albert Korelishn and Tex Janulis.

9/5/08 – Ken Hemmerle drafts a letter to Broward County and a letter for the Medical Director of Ocean Hyperbaric Neurologic Center regarding the monitoring of oxygen levels in the tank per the request of the Broward County Building Officials.

09/19/08 – Ken Hemmerle (KVH) forwarded a letter to the County in reference to re-instating the Permit.

09/23/08 – KVH spoke with Tex regarding the slab inspection. He also contacted Jim Michaels at Broward County regarding the same.

09/25/08 – KVH spoke with both Tex and Jim Michaels again. The permit was reinstated.

12/05/08 – KVH spoke with Tex regarding his conversation with Marco Perez at Broward County. Checked on the status of the plans from the architect.

12/09/08 – KVH went over the plans with Tex and Tex submitted the revised plans.

12/11/08 – KVH spoke with Tex and Diane about the electrical plans. Electrical plans were approved. He reviewed the plumbing comments and spoke with both Tex and Steve Pilla re the plumbing comments and the meeting.

2009

01/29/09 – KVH spoke with Tex re: status and payment of $1,900+ to the County.

03/02/09 – KVH spoke with both Tex and Al at Dixie Plumbing regarding the plans for the pipe on the north side of the tank.

03/04/09 – KVH spoke with Doug Mitchell at Tri-Gas re: fill pipe on north side. Doug will call Tex to review plans. KVH spoke with Tex re: same.

03/27/09 – KVH spoke with Tex re: tank construction issues.

04/06/09 – KVH spoke with Tex re: permit expiration issues.

04/16/09 – KVH spoke with Tex, Julio (County), Alex Stephenson (County) and Darren Cudmore (engineer) re: meeting on Monday.

04/17/09 – KVH spoke with Tex re: plumbing inspection today at 11:00 a.m. and invoice for the additional new engineering.

04/20/09 – All attended meeting at Town building department with building officials for 3 hours.

04/21/09 – KVH prepared form for extension of permit, took to OMC for signature, picked-up and delivers signed form to the Town building department and spoke with Julio re: same.

04/28/09 – KVH spoke with Al and Tex re: meeting with Dick Paske, Third Party Certifier. Emails Al, Bob and Tex re: Leo's revised plans and asked for their input.

05/04/09 – Conference at OMC with ALL building officials, ALL contractors, KVH and Tex re: status of tank issues.

05/06/09 - KVH spoke with Al, Julio, Steve Pilla and Tex re: tank issues.

05/11/09 – KVH spoke with Tex and Julio re: plumbing report to be filed and permit issued. KVH spoke with Tex and Al re: architect to do additional drawings. KVH spoke with Bob Frank and Tex re: Bob's Final electrical report.

05/15/09 – KVH spoke with Tex re: update on status of tank issues.

05/18/09 – KVH spoke with Dick Paske re: status of report.

05/20/09 – KVH spoke with Tex re: status, his conference with Leo Naveiras (engineer) re: finishing changes to plans based on 4/21/09 meeting the building officials.
Meeting of all – KVH, Tex, Al and Bob.

10/01/09 – KVH spoke with Dan O'Linn and Tex about the '06 permit.

10/05/09 – KVH spoke with Tex re: meeting with building official.

10/07/09 – KVH spoke with Dan O'Linn at the Building Department and advised him that the things requested to be done by the County were completed and that we should like for him to bless it and close out the '06 permit. Dan claimed he would like that as well and that he would review the file and get back to KVH tomorrow. KVH spoke with Tex re: this information.

10/09/09 – KVH spoke with Al at Dixie Plumbing and Tex re: meeting at 10:00 a.m. on Tuesday.

10/03/09 – KVH spoke with the Building Officials.

10/15/09 – KVH spoke with architect Steve Torp at KVH Carlson's. KVH spoke with Tex re: conversation with Steve re: Life Safety Engineer.

10/16/09 – KVH spoke with LSE, Ed Spahn. KVH spoke with Tex re: conversation with Ed and emailed all info to Ed, engineer Darren Cudmore and architect Steve Torp.

10/17/09 – KVH received emails from Cudmore (engineer) and Carlson (architect).

10/19/09 – KVH exchanged multiple emails from with LSE, Ed Spahn, architect KVH Carlson and engineer Darrin Cudmore re: meeting.

10/20/09 – Conference at OMC with LSE Ed Spahn, contractor Gary Ansley, engineer Darrin Cudmore, electrician Bob Frank, KVH, Tex and Al from Dixie Plumbing.

11/03/09 – KVH spoke to Darin Cudmore regarding the status of the LSE's report.

11/04/09 – KVH spoke with LSE Ed Spahn.

11/05/09 – KVH conferred with Al, Steve Torp and Dick Paske regarding the new comments from the building officials. KVH discussed issues with Tex re: same.

11/11/09 – KVH reviewed LSE's report and shared info with Tex and conferred with Ed for clarifications.

11/12/09 – KVH had a telephone conference with Tex re: status on report and other information from Tri-Gas, a telephone conference with architect Steve Torp and attorney for Tri-Gas, Ricky Ravine. KVH confirmed conversation with an email to Ricky Ravine.

11/17/09 – KVH had several telephone conferences with Tex re: report and status regarding questions to Tri-Gas. KVH responded to Leah's emails and had several telephone conferences with LSE Ed Spahn re: report.

11/18/09 – KVH had various, multiple telephone conferences and emails between Tex, Tri-Gas attorney Ravine and LSE Ed Spahn regarding revised LSE report. Report not complete as yet.

11/19/09 – KVH spoke with Tex re: revised LSE reports. KVH reviewed revised report, made comments and conferenced with LSE Ed Spahn. KVH spoke with architect Steve Torp and shared comments with Ed.

11/23/09 – KVH spoke with Tex re: revised LSE report is finalized and received. KVH reviewed the finalized report and made comments. KVH emailed attorney Rick Ravine wanting to know where all the Tri-Gas information we have been requesting for months.

11/24/09 – KVH spoke with Tex re: status report. KVH conferenced with LSE Ed Spahn re: comments to report, reviewed report again and call Ed again. KVH spoke with Tex re: same and left a message with the center to have Leah call.

11/25/09 – KVH contacted Tex re: any response from Tri-Gas. KVH called Tri-Gas attorney Rick Ravine again – Rick advised he is calling his client daily to get us the requested information. Confirmed conversation with an email to Rick.

11/30/09 – KVH sent a letter to the building Official. KVH spoke with Tex and Steve Thorp re: same. Additional phone conference with Steve Torp re: construction issues.

12/14/09 – KVH again emailed attorney for Tri-Gas trying to get the requested information for the permit.

12/15/09 – KVH conferred with Diane and called Dan O'Linn at the County. KVH informed Tex of the feedback from O'Linn. Dan had been out of town for 2 weeks – is taking the plans, letter, etc. home tonight and will he back to us on Thursday. Telephone conference with Tex re: review notes on permit.

12/17/09 – KVH spoke with Rick Ravine from Tri-Gas. Tri-Gas is willing to give us a letter but not from an engineer. KVH spoke with Diane re: Dan O'Linn meeting with his gas man at the County. He will get back with us on Friday or Monday. KVH conferred with Tex re: same and updates. KVH again spoke with Rick Ravine re: requested info from Tri-Gas.

12/21/09 – KVH had a telephone conference with Dan O'Linn from the County. Dan advised that he reviewed our materials and that he needed just a few clarifications from the LSE Ed Spahn. He said the LSE report was good. He also said he had a few questions for the County plumbing inspector and that he would call KVH tomorrow. HE CONFIRMED that he is not adding anything new to the mix. KVH informed Tex re: same.

12/22/09 – KVH had a telephone conference with Dan O'Linn. Everything is fine. He just has a couple of points that Ed Spahn needs to clarify and he will have it in writing hopefully tomorrow. He spent 2 hours with Steve Pilla and he just has to talk to Payne the Fire Inspector. KVH informed Tex of this information. KVH received an email from attorney for Tri-Gas. KVH emailed Steve Torp re: same. KVH informed Tex about the email from Tri-Gas attorney.

12/23/09 – KVH conferred with Tex about a letter from Tri-Gas regarding termination of their agreement and waiting for response from OMC engineer re: is information from Tri-Gas acceptable as to flow and size of tank change out. KVH had a telephone conference with Vince Riley at OMC re: letter from Tri-Gas terminating their 2002 agreement.

12/24/09 – KVH had a telephone conference with Dan O'Linn who advised that fire, structural and electrical were all ok. He just needs to speak with Pilla and Julio. Everything is minor. Just a couple of clarifications (again) from Ed Spahn. He did say we will have to re-route valve across the door. KVH informed Tex. KVH spoke with Steve Torp re: 1" line issue. Email to Rick Ravine, Tri-Gas attorney.

12/28/09 – KVH spoke with Tex. KVH emailed Dan O'Linn with a copy to Tex re: 12/24/09 conference with Dan.

12/29/09 – KVH spoke with Tex. KVH emailed Dan O'Linn, spoke with Ralph Gonzalez and Julio at the County and informed Tex of conversations. KVH reviewed Tri-Gas agreement and called Tex re: the cancellation issues.

12/30/09 – KVH conferenced with Tex re: permit issues and Tri-Gas issues. KVH contacted Mike Kitzinger with Roberts Oxygen. KVH emailed Dan O'Linn re: his telephone conferences with Ralph and Julio at the County.

2010

01/05/10 – KVH reviewed Tri-Gas letter re: pricing and spoke to Tex re: status. KVH called Dan O'Linn – no word yet on the letter that O'Linn was supposed to email.

01/06/10 – KVH had a telephone conference with Tex, spoke with Julio and emailed Dan O'Linn. Spoke with Tex again.

01/07/10 – KVH called Dan O'Linn and spoke with Tex re: comments and responses.

01/08/10 – KVH spoke with Tex re: '06 permit issues. KVH emailed Ed Span and Dan O'Linn. He emailed Rick Ravie re: letter of termination and adjustment of product pricing. Spoke with Tex again re: same.

01/09/10 – KVH exchanged emails with Dan O'Linn.

01/11/10 – KVH spoke with Ed Spahn about O'Linn's comments and reviewed comments. He emailed Al and Darin re: same. KVH spoke with Al re: meeting. He spoke with Tex and Ed. He exchanged emails with Dan and again spoke with Al re: inspections.

01/12/10 – KVH finalized the response to O'Linn's comments and emailed to Dan, Steve, Al and Ed. Spoke with Ed, Al and Patty at Dixie Plumbing re: inspection records. He attended the meeting at the Town with Dan O'Linn, Puablo, Steve Pilla, Tex, Gary Ansley, Steve Torp and Al for 2 ¾ hours.

01/16/10 – KVH emailed Tri-Gas's attorney re: manufacturer's tank specs.

01/18/10 – KVH exchanged emails with Jared at Tri-Gas re: tank specs and copied to Darrin and Al.

01/19/10 – KVH reviewed notes from the January 12, 2010 Town meeting and emailed O'Linn, Al and Darin. Spoke to Tex re: same. KVH received email from O'Linn and shared with Al and Darin. Spoke to Tex re: same.

01/26/10 – KVH spoke with Gary Ansley re: Dan O'Linn pushing Gary and shared via email to Darin and Al.

01/27/10 – KVH spoke with Darin.

01/29/10 – KVH sent a letter to Dan O'Linn and spoke with Darin re: plans revisions per County.

02/04/10 – KVH spoke with Steve Torp and Jennifer Loft at the Town re: comments. KVH exchanged emails with Dan O'Linn. KVH spoke with Steve Torp, Gary Ansley and Tex then emailed O'Linn re: comments.

02/05/10 – KVH spoke with Darin re: letter requested by building official for exterior door near the vaporizers.

02/08/10 – KVH spoke with Tex and Gary Ansley and emailed the "email trail" to Gary.

02/12/10 – KVH prepared the Permit Application for the exterior door for the '06 permit and a Renewal Permit Application for the '06 permit. KVH spoke with Tex re: permitting and application status and go over the emails exchanged with Dan O'Linn.

02/15/10 – KVH spoke with Tex. KVH met with Gary re: delivery of Application for Permit for door and Renewal/Extension of the '06 permit.

02/16/10 – KVH spoke with Leah re: status of the '06 permit. KVH spoke with Gary re: delivered applications to O'Linn for the door and extensions. KVH conversed and emailed extensively with Tex, Steve Torp and Dan O'Linn.

02/18/10 – KVH spoke to Tex and Gary re: status of '06 permits.

03/05/10 – KVH had a telephone conference with Tex re: building issues and review new comments. KVH emailed and called Jared Vise at Tri-Gas. KVH spoke with Tex re: same. KVH again spoke with Jared re: relief valves and reserve system and informed Tex and Al of same.

03/08/10 – KVH spoke with Tex about not hearing from Dan O'Linn and Jared Vise.

03/10/10 – KVH spoke with Tex and Gary about email and conference with Dan O'Linn.

03/11/10 – KVH emailed Jared Vise and spoke to Tex about it. KVH exchanged emails with attorney John Molnar of Tri-Gas and informed Tex. He copied the emails to Ed Spahn and Al.

03/15/10 – KVH exchanged email with Dan O'Linn and shared with Tex. KVH spoke with Ed Spahn re: amended letter/report concerning relief valves and shared with Tex.

03/16/10 – KVH spoke with Tex re: email to O'Linn. He revised email based on Tex's suggestions and sent to O'Linn. He emailed Darin re: relief valves and Tri-Gas's position on current location of relief valves. He emailed Ed Spahn re: valves and shared with Tex.

03/18/10 – KVH had numerous conferences with Tex re: emails, Spahn's letter and if we reached Darin. KVH talked to Ed Spahn and completed the letter re: valves.

03/19/10 – KVH spoke with Dan O'Linn and Dan said OK for Darin to redline plans to remove relief valve comments on plans and the door painting of area of fill valve is OK. KVH shared with Tex and emailed and spoke with Darin re: same.

03/20/10 – KVH spoke with Tex re: meeting with O'Linn on Monday.

03/23/10 – KVH shared with Tex email to Dan O'Linn re: engineer trying to check the plans re: relief valves and status on various emails including revision of plans by engineer.

03/24/10 – KVH spoke to Tex several times re: emails and letters exchanged with O'Linn and Darin.

04/12/10 – KVH had a telephone conference with Tex re: Steve Pilla and Jim Michaels showing up on the jobsite and Steve Pilla saying he IS NOT going to sign off on the '06 permit and Gary speaking with Dan O'Linn today who advised he will take care of it.

04/20/10 – KVH spoke with Tex re: update on the '06 permit.

04/21/10 – Attorney Dick McCusker researched statute of limitations case law and statues on code enforcement liens.

04/28/10 – KVH reviewed notes from conference with Tex and emailed Jared Vise at Tri-Gas re: pressurization of tank and certification. KVH conferred with Dick McCusker re: his review of legal research on code enforcement liens and statute of limitations on all liens by Town.

04/30/10 – KVH conferred with Tex re: emails to Jared at Tri-Gas and Tex's discussion with the third party verifier.

05/04/10 – KVH exchanged emails with Jared Vise at Tri-Gas re: certification of tank and pressurization. KVH spoke with both Tex and Al re: emails.

05/05/10 – KVH shared with Tex the status on finally hearing back from Tri-Gas's attorney Rick Ravine. KVH had a telephone conference with Rick about the certification. KVH called Tex about O'Linn's conference with Gary that all he needs is the letter from Tri-Gas that the tank is certified.

05/06/10 – KVH spoke with Gary re: the letter from Tri-Gas, he informed Tex and emailed the letter to O'Linn. He spoke with Al re: same. He prepared a letter to Tri-Gas's general counsel John Molnar but is holding off until he hears from O'Linn. KVH exchanged emails with O'Linn and shared with Tex re: the letter.

05/07/10 – KVH conferred with Tex re: emails to O'Linn and his conference with Al and Dick Paske re: certification of tank. KVH spoke with Dan O'Linn re: verifier on plans license has expired. Have verifier certify tank and Dan will call KVH on Monday. Shared with Tex.

05/11/10 – KVH spoke with Linn again re: verifier. Dixie Plumbing's verifier will certify the tank and Al will call for final inspection. Dan will give a TCO when the center is open, the oxygen tank is filled and a permanent CO is issued when the tank is filled. All was shared with Tex.

05/12/10 – KVH reviewed the report of medical gas expert, Dick Paske and spoke with him. KVH spoke with Tex re: same.

05/25/10 – KVH called Al re: tank inspection by verifier/certifier tomorrow at 11:00 a.m. and informed Tex. KVH spoke with Leah re: tank issues. KVH conferred with Tex re: tank issues and Dick Paske's report as well as tank testing/certification issues to close out the '06 permit.

06/07/10 – KVH spoke with Tex re: tank issues.

06/09/10 – KVH spoke with Leah re: Tri-Gas certification.

06/13/10 – KVH reviewed the contract and billing materials of architect re: tank.

06/14/10 – KVH talked to Leah re: architect billing and information.

06/16/10 – KVH conferred with Tex on recent tank certification and status.

06/17/10 – KVH spoke with Leah re: Tri-Gas contract and termination.

06/18/10 – KVH talked to Leah re: Tri-Gas issues.

06/21/10 – KVH had a telephone conference with attorney John Molnar of Tri-Gas re: certification of tank required by building officials and in formed Tex along with Al as to what is needed for the final inspection.

06/22/10 – KVH had a telephone conference with Leah re: his conversation with John Molnar. He reviewed an email from Leah as to what she wants from Tri-Gas. KVH composed an email to John Molnar and shared with Leah, Tex and Al and copied final to Leah and Tex.

06/24/10 – KVH reviewed email from Leah and emailed attorney Molnar at Tri-Gas re: any word?

06/25/10 – KVH emailed Molnar again and shared with Tex.

06/26/10 – KVH responded to Leah's emails re: Tri-Gas.

06/29/10 – KVH spoke with Leah re: Tri-Gas and the email from Tri-Gas to Leah re: attempt to terminate the agreement and Leah's response to them.

07/01/10 – KVH spoke with Leah re: any word from Tri-Gas, using portable units as an alternative and the meetings for next week. He emailed John Molnar and shared with Leah.

07/02/10 – KVH spoke with Bill Sauntry at Tri-Gas re: outstanding bill of $873.00.

07/12/10 – KVH conferred with Tex re: attempt to contact Dan O'Linn and left message as he was on vacation. He left a message with Dennis who was the alternate at County and shared with Tex.

07/15/10 – KVH reviewed Leah's letters to O'Linn re: portable oxygen units. KVH spoke with Tex re: attorney McCormick will be calling.

07/16/10 – KVH spoke to attorney Bill McCormick.

07/20/10 – KVH spoke to Kim at the Town re: mitigation of liens. He reviewed the mitigation application and emailed Kim re: questions.

07/21/10 – KVH conferred with attorney McCusker (Dick) re: liens.

07/30/10 – KVH met with Leah, Winnie and Tex re: Tri-Gas issues and shared with Dick.

08/02/10 – KVH reviewed Tri-Gas contract and shared with Tex and Dick.

08/03/10 – KVH spoke with Tex re: Tri-Gas and drafted an email to attorney Molnar.

08/04/10 – KVH conferred with Leah and Tex, completed email to Molnar and shared with Leah. He reviewed Molnar's email response re: Valdini letter. He spoke with Tex and Leah and emailed Molnar and copied Leah. Dick reviewed all documents and commented to KVH.

08/05/10 – Dick reviewed contract and emails and commented to KVH.

08/11/10 – Dick reviewed material and shared with KVH Tri-Gas status.

08/12/10 – Dick reviewed Tri-Gas material and conferred with KVH status.

08/13/10 – Dick researched gross negligence/punitive dames for Tri-Gas Complaint.

08/14/10 – Dick drafted additional counts for Complaint.

08/16/10 – Dick conferred with KVH re: Tri-Gas Complaint.

08/17/10 – KVH exchanged emails with Leah re: Tri-Gas and reviewed Leah's email re: change in the system. KVH conferred with Dick and emailed Leah re: change in oxygen system.

08/19/10 – KVH conferred with Dick and Tex re: tank issues, contract, Complaint and third party supplier.

08/24/10 – KVH drafted and revised the Tri-Gas Complaint. Dick spoke with KVH re: count of the Complaint.

08/25/10 – KVH continued drafting Complaint and conferred with Dick re: Causes of Action and theories, revisions, negligence counts and estoppel/statute of limitations. Revision 4 of draft.

09/02/10 – KVH completed the letter/package to Town re: relief from Liens, conferred with Dick and delivered package to the Town Building Department.

09/10/10 – KVH reviewed email/letter from Diane and emailed Diane revised letter to the Town.

09/15/10 – KVH spoke with Leah re: status on lien clearances. Dick and KVH conferred and reviewed email from attorney Andrew Stone (Stone) re: liens.

09/17/10 – Dick spoke with KVH re: removal to Federal Court and reviewed case law.

09/20/10 – KVH reviewed the Answer and Affirmative Defenses of Tri-Gas. KVH spoke with Tex and Leah re: status. KVH spoke with Leah re: suppliers being interfered with by Tri-Gas and informed Gary Ansley of the same. Dick reviewed Tri-Gas Notice of Removal and Declaration, removal requirements, Answer and Affirmative Defenses and research remand law.

09/21/10 – Dick continued reviewing case law and removal/remand.

09/22/10 – Dick reviewed Court Practices Notice.

09/23/10 – Dick spoke with KVH re: indemnity agreements and disconnection of vaporizer. Dick reviewed email that KVH sent to Stone re: Town agenda re: liens. KVH conferred with Tex re: release and indemnity agreement of subcontractors and shared with Al and Leah and emailed draft revision to Hold Harmless Agreement to Leah.

09/27/10 – Dick reviewed Tri-Gas scheduling order and conferred with KVH. KVH spoke with Kim Williams at the Town re: liens/status on getting on commission agenda. Shared results with Tex.

09/30/10 – Dick researched code violations and property liens.

10/01/10 – KVH spoke with Assistant Town Manager, Bud Bentley (Bud) re: liens. KVH spoke with Vince Riley and Dick re: lien issues. Attorney Laura Morgan reviewed liens and consulted with KVH.

10/02/10 - KVH conferred with Dick re: lien issues, strategy, case law and legal research.

10/04/10 – KVH conferred with Dick and Mike Dolan at Chicago Title re: liens. KVH called attorney Sharon Miller at the City of Fort Lauderdale. KVH spoke with Vince advising him of the telephone conferences with the Town and the Title Company and the various options. Vince says to offer them $25,000.00. Dick reviewed an email from attorney Brian Hole (Brian) re: conference call and Notice of Jury Trial Demand.

10/05/10 – KVH conferred with Dick and Tex re: Federal Tri-Gas case in preparation for conference call with opposing counsel and settlement issues. Conference with attorneys Jeff Davis (Jeff), Brian and Dick re: Federal case. KVH and Dick conferred re: Tri-Gas conference, review court order, conference with Tex and KVH, scheduling order, emails and mediation dates.

10/06/10 – KVH and Dick confer re: Tri-Gas case, strategy on remand, mediation and Striking of Defenses. Dick reviewed the proposed order, mediation, email to the judge, corporate disclosure statement and settlement outline from Jeff and discussed with KVH.

10/07/10 – KVH conferred with Dick and Tex re: attorney fee and Tri-Gas matter. Dick reviewed response to Jeff, settlement offer, removal cases and conferred with KVH.

10/11/10 – KVH did legal research in preparation for Motion to Strike and drafted Motion to Strike Tri-Gas's Affirmative Defenses and legal research. Dick researched remand case law and shared with KVH.

10/12/10 – KVH finished drafting Motion to Strike, share with Dick, finalize Motion and file with Federal Court. Dick researched deficient notice/remand in Federal Court, drafted Motion to Remand and conferred with KVH.

10/13/10 – Dick completed draft of Motion to Remand and shared with KVH.

10/14/10 – Dick reviewed Order on Motion to Strike.

10/15/10 – Dick Reviewed Pro Hac Vice Motion.

10/18/10 – KVH reviewed remand status report, Motion for Remand, shared with Dick and revised Motion for Remand. Dick reviewed same and conferred with KVH re: revisions and new citations.

10/19/10 – KVH revised Motion for Remand, conferred with Dick and filed Motion with Federal Court. KVH and Dick reviewed emails between KVH and Jeff and discussed same along with settlement issues.

10/20/10 – Dick researched Reply to Affirmative Defenses, Federal Rules and Federal Case Laws.

10/21/10 – KVH spoke to Tex re: city commissioner and status of Tri-Gas. KVH contacted the Florida Bar re: issue of contacting commission. He reviewed case law pertaining to communication with a member of a quasi-judicial body.

10/22/10 – KVH conferred with Tex and Leah re: damages – Tri-Gas. He reviewed Order from Federal Court and shared with Dick. Dick reviewed Order Granting Appearance, Order Requiring Filing re: jurisdiction and researched case law re: burden of proof.

10/23/10 – Dick reviewed cases and emailed KVH.

10/24/10 – Dick drafted Response to Court Order Filing.

10/25/10 – KVH spoke to Town Commissioner Chris Vincent re: agenda and summary of fines and liens and shared results with Tex. He reviewed Response to Court Order re: jurisdiction, shared with Dick and filed final Response with Federal Court.

11/05/10 – Dick reviewed Tri-Gas's Response to Motion to Remand, contract and researched measure of damages in Federal and State law and shared with KVH.

11/06/10 – Dick Researched procedure for Response to Motion for Remand, local rules, defendants case law and drafted Reply to Remand.

11/08/10 – KVH and Dick confer re: Response.

11/10/10 – KVH reviewed Response to Motion to Remand, draft of Reply to Response, revise Reply, shared with Dick and his revisions and filed with Federal Court.

11/16/10 – KVH conferred with Tex re: his contact with John Bowman at the Town re: getting on the agenda and new proposed resolution in the work where liens will be handled by Town staff.

11/24/10 – KVH reviewed Federal Court Order and shared with Dick. Dick reviewed the Order Denying Remand, researched appeal, case law, Federal rules and drafted memo. Dick conferred with Scott Ellison, Tri-Gas counsel re: discovery and reviewed faxed discovery from Tri-Gas.

11/29/10 – Dick reviewed scheduling order and research local rules re: discovery motions and conferred with KVH the status of new oxygen system.

12/01/10 – Dick reviewed Federal rules re: discovery and due dates, email to KVH re: portable system issues. Dick and KVH conferred re: status, strategy and progress.

12/02/10 - KVH spoke with Leah re: status of the Tri-Gas case settlement options, recent Order by Federal Court and discovery. Shared same with Dick. KVH spoke with

Tri-Gas attorney Jeff Davis. Dick and KVH conferred re same and system issues, damages calculation and Motion to Stay. Both conferred with Scott.

12/08/10 – KVH conference called Leah, Winnie, Tex, Dr. Daviglus and Dr. Rodas re: Tri-Gas case. Dick conferred re: Tri-Gas damages and meeting.

12/09/10 – Dick and KVH spoke about the Motion for Continuance and drafted an email to Scott.

12/10/10 – KVH and Dick prepared for the conference call with Scott. Both conferred with Scott re: the possibility of a Stipulation for Dismissal to re-file as an alternative to a continuance of the Federal case. KVH spoke with Leah re: Dismissal Without Prejudice as a solution, damages issues and speedy trial date base on Judge's scheduling Order and to her he was available for questions.

12/14/10 – KVH spoke to Tex re: Tri-Gas strategy of a Voluntary Dismissal Without Prejudice.

12/15/10 – KVH conference called Dr. Daviglus, Leah, Vince and Ginger. He reviewed law on dismissals and shared all with Dick. Dick researched Federal local rules on dismissal, costs and fees and shared with KVH.

12/16/10 – KVH spoke with Scott re: Continuance/Voluntary Dismissal without Prejudice in Tri-Gas case and shared with Dick the same.

12/17/10 – KVH did legal research to prepare Joint Stipulation for Voluntary Dismissal. KVH and Dick conferred in preparation for the conference call with Scott re: Voluntary Dismissal and parameters. KVH prepared draft of Agreement with Tri-Gas attorneys, shared with Dick and emailed to Scott the Joint stipulation for Dismissal and the Agreement. He revised the Agreement, sent to Scott and shared with Dick.

12/18/10 – Dick reviewed Pro Hac Vice (PHV) Motion re: Scott and share with KVH.

12/21/10 – KVH conferred with Dick re: Tri-Gas status and call to Scott. Dick reviewed posting of Denial of PHV Motion, email to Scott, conference with Scott, scheduling Order on Discovery Order on Vacating Denial PHV Order – granting and statute of limitations. Shared all with KVH.

12/23/10 – KVH had a conference call with Scott going over the Agreement. KVH revised Agreement. Dick reviewed the email and revised Agreement from Scott. Dick researched refilling issues, attorney fees, Rule 41 Fees Federal case law and Moreno orders and shared with KVH. KVH and Dick conferred with Scott, and revised Agreement and emailed to Scott.

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01/04/11 – KVH spoke with Scott, revised the Agreement and emailed to Scott. Several more conferences between KVH, Dick and Scott and revisions. KVH emailed final to Scott.

01/07/11 – Dick reviewed emailed signed Agreement from Scott.

01/11/11 – KVH spoke with Scott re: the Stipulation and Agreement. KVH spoke with Jeff Bowman at the Town re: status of resolution to have staff deal with fines/liens and agenda time frame. KVH shared with Tex and Dick

01/12/11 – KVH emailed signed Agreement to Scott and filed Joint Stipulation for Dismissal without Prejudice with Federal Court. Shared all with Dick.

01/14/11 – Dick reviewed Oder of Dismissal from Judge Moreno.

01/18/11 – KVH spoke with Leah and Leah said to Close out the Town liens before settling with Tri-Gas. KVH shared with Dick. KVH called Jeff Bowman.

01/19/11 – KVH spoke with Leah to explain the offer of $10,000.00 and that Jeff Bowman is putting us on agenda and will have a recommendation in 2 weeks. KVH spoke with Jeff Bowman and he is putting us on the February agenda and it will go before the city council without need for testimony, etc.

02/01/11 – KVH spoke with Jeff Bowman re: facts and issues in the case vis-á-vis and recommendation.

02/02/11 – KVH spoke with Jeff Bowman, Dick, Bud Bentley and Jeff again going over and reviewing liens, fines and Final Order. KVH contacted Jeff Bowman and Bud Bentley again re: the facts of the case, mitigation and listing. KVH spoke with Dr. Daviglus re: status of lien file. Dick conferred with KVH re: Town calculations of fines, Final Orders, permits and review of Notices and Orders.

02/03/11 – Dick researched validity of Certification of Lien, review of Broward County records of Liens and certification, Fl. Stat. 162.09 and Massey Notice and shared with KVH.

02/04/11 – KVH had multiple conferences with Dick and real estate attorney Laura Morgan re: the memo Attorney's Title Insurance to find re: liens and revised same. KVH reviewed Laura's memo to attorney's Title re: liens and made a revision, reviewed Dick's revisions and shared with all. Dick reviewed all documents.

02/07/011 – KVH reviewed opinion from the attorney's at Title Underwriter Counsel and shared with Dick. KVH spoke with Lori Cadarid at Chicago/Ticor/Fidelity.

02/08/11 – Dick spoke to KVH about a call to attorneys Title re: a lien problem.

02/10/11 – KVH contacted Lori at Chicago Title and emailed Lori. He spoke to Jeff Bowman and shared with Dick about code liens and strategy.

02/11/11 – KVH exchanged multiple emails with Ric Rivas, underwriting counsel at Chicago Title, Dan O'Linn, Jeff Bowman and Bud Bentley. KVH exchanged multiple phone calls with Bud Bentley, Jeff Bowman and Dick. Dick conferred with KVH conversations, Town strategy, notices, case law and Statutes.

02/12/11 – Dick drafted a memo re: Massey notice and liens.

12/14/11 – KVH exchanged emails and phone calls with Dick re: Massey argument for failure to provide notice of Lien to owner and list out arguments for the city attorney. Dick researched actual notice, due process, code statutes and drafted a memo.

02/15/11 – KVH prepared for and attended a meeting with Jeff Bowman, Kim Williams, Dan O'Linn, Steve Payne and Tex. He emailed Town attorney Susan Trevarthen. KVH conferred with Tex re: status on contact with Town attorney and points of the meeting this morning. KVH spoke with Town attorney and shared with Dick. Dick conferred with KVH re: Town meeting, arguments and chronology of work along with notice statutes, Town attorney's position and review of Town ordinances and code.

02/16/11 – KVH spoke with Tex re: status of discussion with Town attorney re: liens. He reviewed a memo from Dick re: Massey notice case law and conferred research under Chapter 163. Florida Statute. Dick researched recorded liens, subsequent purchaser, ordinances and public records. He drafted a memo for Town clerk and shared with KVH.

02/17/11 – KVH continued to draft memo to Town attorney and conferred with Dick re: same. KVH spoke with Tex re: emails from Dan Taylor. He exchanged emails with Town attorney and he shared with Tex. KVH spoke with Tex re: evidence he uncovered pertaining to liens, emails from Trip-Scott and attorney Armpreister and shared with Dick. KVH worked on email memo to Town attorney. Dick conferred with KVH re: emails from prior attorneys re: lien resolution. Reviewed correspondence with Town attorney and revise and exchanged emails with Town attorney.

02/18/11 – KVH spoke with Tex, emailed Jeff Bowman, worked on the memo to Town attorney and reviewed materials from Tex's records. KVH conferred with Dick re: law on Notice of Charges vis-à-vis Final Order of Magistrate. KVH spoke with Tex again and went over additional records pertaining to '06 permit. He prepared and email memo to Town attorney re: OMC coming into compliance when the permits were issued. KVH conferred with Dick and Tex re: memo to Town attorney. Dick researched beyond scope, notice and online Town archives re: minutes.

02/19/11 – KVH conferred with Tex and prepared chronology for cases for lien mitigation.

02/21/11 – KVH conferred with Tex and continued with chronology.

02/22/11 – KVH spoke with Tex re: chronology. Dick reviewed email KVH sent Town attorney re: violations.

02/23/11 – KVH spoke with Tex re: chronology and email to Jeff Bowman. KVH spoke with and emailed Jeff Bowman. Dick spoke with KVH re: same.

02/24/11 – KVH spoke to Bud Bentley re: he is in agreement on 20% of $8,600.00 fine amount and shared with Tex. KVH spoke with Laura re: same and estoppel letter. KVH emailed Bud Bentley and shared with Tex and Dick.

02/25/11 – KVH spoke with Tex and Dick re: conversation with Bud re: liens and status

02/28/11 – KVH conferred with Tex and Jeff Bowman. He emailed Jeff Bowman and Bud Bentley and reviewed Bud's reply and answered, and shared with Tex.

03/01/11 – KVH continued work on chronology. He conferred with Jeff Bowman re: status and Jeff is waiting to hear from Town attorney. Shared with Dick.

03/02/11 – KVH spoke with Jeff Bowman re: liens and public records requests for minutes and shared with Dick and Tex. KVH emailed Bowman. Dick conferred with KVH re: communications with the Town, attorney feedback, notice research and procedural due process along with memo and letters to Jeff and Bud.

03/03/11 – KVH spoke with Dick and Tex re: email from Bud Bentley. He drafted a letter to Jeff and Bud re: negotiations and shared with Dick and Tex. KVH and Dick reviewed and conferred re: the minutes for 1-18-05, 5-23-05 and 1-30-06.

03/04/11 – KVH spoke with Tex re: all findings.

03/07/11 – Multiple conversations between KVH, Dick, Chris Vincent, Jeff Bowman and Tex re: emails, attachment re: chronology and prior representations.

03/08/11 – KVH spoke with Tex and Dick re: status and results. Contact with Florida Bar Staff attorney re: only speaking with Town attorney.

03/09/11 – KVH spoke with Tex and Dick re: call to Chris Vincent. He shared with Tex contact with Town attorney and Dick's comments.

03/10/11 – KVH conferred with Town attorney. She claimed to respond tomorrow. Shared with Tex and Dick.

03/14/11 – KVH spoke with Chris Vincent and reviewed email memo from Town attorney. Shared with Tex and Dick.

03/15/11 – KVH conferred with Dick and Tex re: status and strategies. Dick researched case law re: memo, March agenda, email to Vincent and prior attorney's files.

03/16/11 – KVH called Chris and Jeff and conferred and email exchanges with Dick. He also spoke with Tex and Dan Taylor (prior attorney) re: case facts, involvement regarding liens and code violation hearings. He telephone conferenced Dr. Daviglus, Tex, Vince and Ginger re: status of lien mitigation process.

03/17/11 – KVH revised chronology and letters to Bud and Jeff and shared with Tex and Dick. He spoke with assistant Town attorney, Michele Vos.

03/21/11– Dick researched case law re: official authority, ultra vires, approval, ratification of Agreement and Town ordinances re: official authority.

03/22/11 – KVY conferred with Tex (update/status), Dick, (case law on estoppel issues) and Dan Taylor.

03/24/11 – KVH continued work on tank chronology. Multiple communications between Tex, Dick and Dan Taylor and research re: failure of Town to notice attorney for the January 30, 2006 hearing.

03/25/11 – KVH reviewed emails re: case law on lack of Notice of Hearing to attorney Dan Taylor and shared with Dick, Tex and Kim William.

03/26/11 – KVH shared with Dick case law on Lack of Notice, additional due process and emails.

03/28/11 – KVH reviewed files at Town Hall, check on certified copies at Town Hall and shared with Tex and Winnie. He continued research and contacted Tex and Dan Taylor. His contact with Jeff Bowman confirmed Town will dismiss Case No. 04-2220 and he sent an email confirmation. He shared with attorney Laura Morgan.

03/30/11 – KVH continued to work on chronology and shared with Dick. Dick researched dec action, attorney fees, slander of title action, quiet title, email from Bowman and shared with KVH. Multiple conversations and emails between KVH, Dick and Tex along with sharing the letter to Town attorney.

03/31/11 – KVH continued chronology and had multiple contacts between Tex, Bud, Jeff re: dismissal. Kim will return call on Monday with info as to dismissal. Dick continued research re: additional case law, arguments to Town attorney and developments for revision of letter to Town attorney.

Subsection D

Costs encountered by Ocean Medical Center - Oxygen Tank	
Vendor	Approximate Amount Paid
Nutting Engineering	$1,200.00
JT Electric	$10,500.00
Altron Electric	$9,500.00
Bob Frank Electric	$32,626.00
Dixie Plumbing	$42,580.00
Original Architect	$3,200.00
Navarius Architect / Engineer	$11,250.00
Architect Fitz Harris	$2,800.00
Architect Ken Carlson	$2,200.00
Med Gas Testing	$1,350.00
Life Safety Engineer	$2,000.00
A & A Construction	$78,650.00
Attorney Dan Taylor/Tripp Scott	$17,500.00
Attorney Armpreister	$8,900.00
Attorney Hemmerle	$190,000.00
Broward County Building Department	$8,500.00
Total Paid	$422,756.00

Exhibit 4

TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 776-0576
Fax: (954) 776-1857

5/12/11

APPLICATION FOR RELIEF FROM CODE ENFORCEMENT FINES OR LIENS

* No application will be accepted or processed unless all violations on the property have been placed in compliance by Code Enforcement

CASE # Case # 04-2219

TOWN OF LAUDERDALE-BY-THE-SEA vs. Richard Neubauer Richard A. Neubauer Revocable Trust
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Winnie I. Neubauer, Manager of Ocean Medical Center, L.L.C. (Owner of Property.)
(Person to attend Hearing)

ADDRESS OF APPLICANT: 4001 North Ocean Drive
(Full mailing address) Lauderdale-By-The-Sea, FL 33308

PHONE NUMBER: 954-771-4000

ADDRESS OF PROPERTY: 4001 North Ocean Drive
(Where violation(s) existed) Lauderdale-By-The-Sea, FL 33308

NATURE OF VIOLATION: Code Violations for failure of a VENDOR (Matheson Tri-Gas) to obtain a building permit before changing out an existing 1,500 gallon oxygen tank.

THIS PROPERTY CURRENTLY IS ☐ IS NOT ☒ (check one) INVOLVED IN LITIGATION

All Applications for Relief (where applicable) MUST have the following documentation provided as part of the Application to be reviewed:

N/A 1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
N/A 2. A copy of the Foreclosure Complaint;
3. A copy of the Foreclosure Order, with the recording date, book and page shown;
4. A copy of the Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. A copy of the Certification of Lien Order, with the recording date, book and page shown;
6. A copy of the new Certificate of Title, with the recording date, book and page shown;
7. A copy of the Town's Final Order of Imposition of Fine; and
8. A copy of the Claim of Lien(s) with the recording date, book and page shown.

Please provide a copy of these requirements with all Applications for Relief.

LAUDERDALE-BY-THE-SEA
RECEIVED
MAY 12 2011
DEVELOPMENT SERVICES

FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

A. The nature and gravity of the violation(s);
B. Any actions you have taken to correct the violation(s);
C. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
D. Any actual costs you expended to cure the violation(s), if supported by documentation;
E. Any other prior or current violations committed on the subject property or upon any other property you own within the Town; and
F. Equitable considerations.

WHY RELIEF SHOULD BE GRANTED (This section must be completed and, at a minimum, should address the above factors): See Attached

(Attach additional pages if needed, along with any supporting documentation)

IF APPLICABLE:
Name Of Attorney/Representative: _____

Address: _____

Phone Number: _____

I CERTIFY THAT I am the current owner of the subject property or an Attorney for said owner, or that I am the legal representative for the property or otherwise authorized to act on behalf of the property owner in this matter.

Christine Neubauer 5/12/2011
Signature of Applicant Date

(NOTE: Proof of such lawful authority or written authorization from the property owner must be provided by the applicant prior to this matter proceeding.)

Subsection A

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

There are 5 cases encompassing the code violations pertaining to Ocean Medical Center. Two cases deal with fire sprinklers being installed without a permit (Dr. Neubauer hired a sprinkler company in 2003) and three cases deal with an oxygen tank being replaced without a permit (Dr. Neubauer hired an architect and general contractor in 2004). ALL OF WHOM WERE PAID TO CORRECT THE VIOLATIONS and were all fired by Dr. Neubauer for lack of contractual agreements in 2005. (After this year and one half delay, a new general contractor and architect and sprinkler company were hired.) Let it be known that ALL of the above construction issues were performed by "reputable" companies, whom were hired in good faith by Dr. Neubauer, in an effort to maintain a safe environment for his building and his business. All companies took the money for their work, but unbeknownst to Dr. Neubauer, neither company obtained permits for the work that they performed. The vendor, Tri-Gas told Dr. Neubauer that they did not need a permit to change out the oxygen tank since it was a replacement tank of the same size and use. Attached please find opinions stated by the new contractors who eventually completed and CO'ed the projects, A & A Construction, Caribbean Fire and Dixie Plumbing.

Fire Sprinklers

In 2003, Dr. Neubauer hires a fire sprinkler company to install sprinklers on the first floor of his building. The contractor is paid 75% of the contract price, applies for the permit, but never obtains it. Dr. Neubauer does everything in his power to obtain the permit and complete the work by hiring attorneys and filing a DBPR Complaint, all to no avail.

Dr. Neubauer hires another fire sprinkler contractor who is able to get the permit on 07/01/05, finish the work and obtain a final inspection. It took time because inspections failed since the first contractor's plans did not match up to the work done by the second contractor. Plans had to be revised. On 11/17/06, the final fire inspection is approved.

The chronology shows that Dr. Neubauer and his staff, his attorneys and the contractor kept the Town constantly abreast of the progress at all times. The Notices of Violation said to obtain a plumbing permit for the installation of the sprinklers and obtain an electrical permit for the installation of the sprinklers. The Notice **DID NOT SAY "COMPLETE THE WORK AND OBTAIN ALL INSPECTIONS"**.

On 01/18/05, the magistrate said to obtain the permit, complete the work and obtain all inspections in 120 days. This is an IMPOSSIBLE TASK given the fact that:

(1) The first contractor would not or could not obtain the permit and Dr. Neubauer had a contract with them; and

(2) The amount of time to obtain the permit and complete the work was controlled by the building officials in plan review and the contractors doing the work and obtaining the inspections.

The magistrate went beyond what the Town as asking for. THE TOWN WAS ASKING FOR "OBTAIN A PERMIT ONLY".

At all times, the building was never "red tagged" and never found to be unsafe.

When attorney Kenneth Hemmerle met with Brad Townsend in May/June, 006, he said the Town only seeks to recover it administrative costs once the owner comes into compliance and is only interested in compliance, not fines. He estimated them to be around $4,000.00 to $6,000.00. NOTE: There is a note in the Town's file for one of the cases to schedule in April, 2011 to dismiss. This was confirmed by Mr. Bowman, and the reason is that an electrical permit for the sprinklers was not required. (We have a letter to that effect from the Fire Sprinkler Company.)

On January 30, 006, a hearing was held by the magistrate to impose the fines and liens. This is where the propriety of the liens and fines were addressed.

Dr. Neubauer's prior attorney, Dan Taylor of Tripp Scott, put in his notice of appearance with the Town in May, 2005. He was in regular contact with Jeff Bowman and Kami Parker throughout 2005. There is a letter dated 12/01/05 where Mr. Taylor spoke with Mr. Bowman on 11/30/05 and they agreed not to go in front of the magistrate until the work on the fire sprinklers was complete.

Mr. Bowman sends out a Notice on January 5, 2006 to Dr. Neubauer' residence stating that the hearing in front of the magistrate is set for January 30, 006. The notice is not delivered to Dr. Neubauer by the U.S. Postal Service until February 21, 2006, THREE WEEKS AFTER THE HEARING where fines were imposed. NO NOTICE was provided to Dan Taylor – the statute requires this. NO NOTICE was delivered to a person in charge at the building – the statute requires this. Dr. Neubauer did not have any opportunity to present any witnesses or evidence as the Notice provided for because NO NOTICE WAS PROVIDED. In prior hearings before the magistrate, Dr. Neubauer was represented by attorneys, contractors and an architect. Certainly, Mr. Bowman or the magistrate could have inquired about whether notice had be provided before conducting the hearing, namely; Did the attorney get notice? Did the owner get notice? Was notice delivered to

the building to a person in charge? Did they not think it strange that NOBODY showed up, whereupon up until this time Dr. Neubauer always showed up and with an entourage of professionals of interest to the issues at hand AND totally out of character??

Oxygen Tank

All of the Notice issues/problems are pretty much the same because the Town has lumped all of the cases together, only with the tank, there were multiple hold-ups from the County and Town inspectors and multiple "mid-stream" changes from the County and the Town inspectors.

Similarly, a contractor/vendor changed out and existing tank that the vendor owned without a permit. The scope of the project was much larger than simply obtaining an "after the fact" permit and having the inspections.

Major construction was necessary, multiple tests were required and significant amounts of time and money were consumed with meetings with the building officials, changes in the plans from the County's plan review process and throughout the process, as each new inspector that became involved added new requirements that the prior inspectors did not require, causing additional new architectural plans, additional meetings with the building department, additional time and additional money. Yet despite all of the struggles, battles, time and money, Ocean Medical Center has consistently continued to "do the right thing" and meet all of the challenges thrown at them by the County and the Town, in an effort to be in compliance with the County and the Town codes and ordinances.

TRIPP SCOTT

Attorneys At Law
A Professional Association

DANIEL E. TAYLOR
(954) 760-4926
email: det@trippscott.com

May 13, 2005

VIA TELECOPIER: 954-776-1857
Lauderdale by-the-Sea
Zoning Code Compliance
Attn: Kami Parker
4501 Ocean Drive
Lauderdale-by-the-Sea, Florida 33308-3610

RE: Ocean Hyperbaric Center
Notice of Appearance
NOV Cases #04-2216,2217,2218,2219 and 2220

Dear Ms. Parker:

This letter is to serve as a notice of appearance by the law firm of Tripp Scott in the subject code violation matters concerning Ocean Hyperbaric Center. You and I have discussed the Special Master hearing scheduled for May 23, 2005 and I will contact you in the beginning of next week concerning that hearing.

Please call me if you have questions.

Sincerely,

Daniel E. Taylor
For the Firm

DET:kkb

356295v:1 991857.0002

Exhibit A

UNITED STATES POSTAL SERVICE

Home | Help | Sign In

Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: 7005 0390 0004 9823 6978
Detailed Results:

- **Delivered, February 21, 2006, 8:40 am, POMPANO BEACH, FL 33060**
- **Notice Left, January 07, 2006, 1:12 pm, POMPANO BEACH, FL 33062**

< Back Return to USPS.com Home >

Track & Confirm
Enter Label/Receipt Number.
Go >

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard A. Neubauer
A Trust Richard A. Neubauer
Revocable Trust
Ocean Hyperbaric Surgical
1584 SE 19th Avenue
Lauderdale By The Sea FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
NOH. 04-2216, 04-2217, 04-2218, 04-2219, 04-2220

mailed 1/5/06

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 0390 0004 9823 6978

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Premier Accounts
Privacy Policy

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Neubauer
Revocable Trust
1584 SE 19th Avenue
Lauderdale by the Sea, FL 33062

POMPANO BEACH FL 330 JAN 13 2006

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) [signature] | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
Case NO: 04-2216, 04-2217, 04-2218, 04-2219, 04-2220

mailed 2-14-06

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 2570 0000 9026 5305

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Exhibit B

A&A Construction Co.

432 NE 26 ST

Wilton Manors, FL 33305

Lic. CBCO36329

Ph: 954-565-5740

Fax 954-533-4028

To whom it may concern:

Re: Ocean Hyperbaric/Ocean Medical 5/11/11

A&A involvement on this particular job started on 2006 and still on going,
Our involvement was to secure an after the fact permit to encase the new Matheson Tri-Gas tank that was change out without a permit.

My job to secure approved plans changed so many times during the permit process due to the building department comments.
It was easier to obtain permit for the first floor reconstruction than it was to get the 06 permit approved and finaled out.

We are currently working on the 2010 permit required by the building department before the city allowed us to secure the'09 building permit.

I believe the responsibility for the occurred delays on the '06 & '09 permits was not the fault of the owners but the never ending, changing requests of the building departments.

Gary Ansley
A & A Construction
Lic #: CBCO36329

CARIBBEAN FIRE & ASSOC. INC.
3858 SW 30th Ave, Suite 109
Hollywood, FL 33312
Toll Free: 1 800 624 2281
T: 954.581.9393
F: 954.581.2896
www.CaribbeanFire.com

April 19, 2011

Tex Janulis
Ocean Medical Center, L.L.C.
4001 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)
Permit No.: 05-05945

Dear Tex:

As you know we pulled the permit for the fire sprinklers at the above commercial building for the first floor on July 1, 2005. We did not pull an electrical permit for the installation of the fire sprinkler system because it was not required. Our work has passed inspection and approved by Broward County. You informed me that the Town is claiming $101,400 in fines for the above case. You further informed me that the Town of Lauderdale-By-The-Sea through its Code Compliance Officer, Jeff Bowman, stated that it was the Town's intent to dismiss the above case because an electrical permit was not required for the installation of the fire sprinkler system. I would agree with the Town in this regard because it is not necessary for me to pull an electrical permit on any of my fire sprinkler projects to be finaled.

Very truly yours,

Sam Santiago
President

SS

DIXIE PLUMBING SERVICE, INC.

LIC. CFC-019074 TAX ID 59-1375979
1900 N. Andrews Avenue Extension, Suite B
Pompano Beach, Fl 33069
Telephone: 954 972-9595 Facsimile: 954 972-3380
E-Mail patty@dixieplumbing.com

To Whom it may concern:

Re: Ocean Hyperbaric / Ocean Medical
05-10-11

As it may be, I have never been involved in a job where the "approved plan" changed so many times during the permit process, due to building department comments. Without recreating the specific dates and times, we started this particular job in 2006 and finished in December of 2010. Our involvement was to assist in securing and "after the fact" permit for the replacement of a liquid oxygen tank that was changed out by Matheson Tri-Gas. We were not involved in the " change-out" but asked if we could get the tank change-out permitted. Notwithstanding destruction of property from the oxygen chamber fire, it was easier to obtain a permit for the first floor reconstruction than it was to get the original "06" permit approved and finaled out. The responsibility for the incurred delays, in my opinion, was not the fault of the owner, but of the ever changing request of the building department.

Albert C Korelishn
Albert C. Korelishn
CFC 019074
Dixie plumbing Service, Inc.
Member of the Broward County Board of Rules an Appeals from 1980 to 2010
Member of the Construction Industry Licensing Board since 2010 to present

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the PETITIONER Town met its burden of providing by substantial competent evidence, that the alleged violation(s) does in fact exist on the subject property.

ORDER

THEREFORE, BASED UPON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UNDERSIGNED SPECIAL MASTER FINDS THE RESPONDENT GUILTY OF VIOLATING: CODE SECTION 24-5.148 (1).

IN DETERMINING THE FINE AMOUNT TO BE IMPOSED, CONSIDERATION WAS GIVEN TO: (1) THE GRAVITY OF THE VIOLATION(S), (2) ANY ACTIONS TAKEN BY THE RESPONDENT(S) TO CORRECT THE VIOLATION(S); AND (3) ANY PREVIOUS VIOLATIONS COMMITTED BY THE RESPONDENT(S).

FINALLY, THE SPECIAL MASTER FINDS THAT THE RESPONDENT BE GIVEN ONE HUNDRED AND TWENTY (120) DAYS FROM THE DATE OF THIS ORDER TO CORRECT SUCH VIOLATION BY PERMITING, COMPLETING THE WORK AND OBTAINING ALL INSPECTIONS. FAILURE TO COMPLY WITHIN THE SPECIFIED TIME PERIOD SHALL SUBJECT THE RESPONDENT TO A FINE OF ONE HUNDRED AND NO/100 DOLLARS ($100.00) PER DAY. THE PETITIONER HAS REQUESTED AN ADMINISTRATIVE FEE AGAINST THE RESPONDENT IN THE AMOUNT OF ONE HUNDRED FIFTY DOLLARS AND NO/100 ($150.00). THE SPECIAL MASTER GRANTS THE PETITIONER'S REQUEST OF THE ONE HUNDRED FIFTY AND NO/100 DOLLARS ($150.00) ADMINISTRATIVE FEE AGAINST THE RESPONDENT.

Done and Ordered this 18th day of January, 2005 at Lauderdale By The Sea, Florida.

Ian M. Berkowitz, Special Master

ATTEST:

Alina Medina, Town Clerk for the Special Master

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

16th day of Feb, 20 06

Town clerk

RECEIVED
FEB 04 2005
BY: C. Lepetit for LBCS

TOWN OF LAUDERDALE BY THE SEA
CODE COMPLIANCE SPECIAL MASTER

CASE NUMBER: 04-2219

TOWN OF LAUDERDALE BY THE SEA,

Petitioner

vs.

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 SE 19th Avenue
Lauderdale By The Sea, FL 33062,

Respondent

FINAL ORDER

HEARING DATE: 18th DAY OF JANUARY, 2005.

VIOLATION(S): CODE SECTION 24-5.148 (1)

An administrative hearing was held before the Special Master on January 18, 2005. Set out below are the findings of fact, conclusions of law and final order for the subject hearing.

FINDINGS OF FACT

The record indicates that the RESPONDENT owns certain real property located at 4001 Ocean Drive, Lauderdale By The Sea, Florida 33308 and more particularly described as follows:

Tax Folio Number (Property I.D.): 9318-04-075

At the hearing held on this matter on January 18, 2005 the PETITIONER Town presented testimony by Code Enforcement Officer Kami Parker, concerning her personal knowledge of the existence of the subject violation(s), and entered into record evidence of notice required under Chapter 162 Florida Statutes. Respondent, RICHARD A. NEUBAUER REVOCABLE TRUST was not present at the hearing.

given to: (1) the gravity of the violation(s), (2) any actions taken by the Respondent(s) to correct the violation(s); and (3) any previous violation(s) committed by the Respondent(s).

3. That this Certification, together with the original Final Order, be recorded in the Public Records of the Office of the Clerk of the Circuit Court in and for Broward County, Florida. Pursuant to Section 162.09, Florida Statutes, these documents, once recorded, shall constitute a lien against the land on which the violation(s) exist, and upon any other real or personal property owned by Respondent(s).

4. If any person desires to appeal, pursuant to Section 162.11, Florida Statutes, such person will need a record of the proceedings which includes the testimony and evidence upon which the appeal is based.

Certification of Lien ordered at Lauderdale-By-The-Sea this 30th day of January, 2006.

ATTEST:

BY: _____
Alina Medina, Town Clerk

Special Magistrate of the Town of Lauderdale-By-The-Sea

BY: _____
Ian M. Berkowitz, Special Magistrate

State of Florida
County of Broward

On this, the 14th day of February, 2006, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by Alina Medina, Town Clerk, and Ian M. Berkowitz, Special Magistrate of the Town of Lauderdale-By-The-Sea, Florida.

WITNESS my Hand and Official Seal

JUNE A. WHITE
Notary Public - State of Florida
My Commission Expires Aug 15, 2008
Commission # DD119085
Bonded By National Notary Assn.

_____
Notary Public, State of Florida

JUNE A. WHITE
Printed, typed or stamped name of
Notary Public exactly as Commissioned.

✓ Personally known to me

Copies furnished to:
Richard Neubauer
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, Florida 33062

CFN # 105798160, OR BK 41480 Page 1908, Page 1 of 4, Recorded 02/17/2006 at 10:31 AM, Broward County Commission, Deputy Clerk 2030

Please Return Recorded Document to:
Code Enforcement Division
Development Services Department
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

BEFORE THE SPECIAL MAGISTRATE
TOWN OF LAUDERDALE-BY-THE-SEA

ORDER IMPOSING FINE/CERTIFICATION OF LIEN

TOWN OF LAUDERDALE-BY-THE-SEA,

Petitioner

v.

Case No. 04-2219

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, FL 33062,

Respondent(s).
_____/

The above referenced case was heard on January 18, 2005. The Respondents were found in violation of the Town Code of Ordinances and given until May 18, 2005 to comply the violation. An Affidavit of Non-Compliance was issued on February 3, 2006.

The property located at 4001 Ocean Drive, Lauderdale-By-The-Sea, Florida, corresponding to Folio # 9318-04-0750, is still in violation of the Town's Code of Ordinances.

Therefore, pursuant to Section 162.09, Florida Statutes, the Special Magistrate certifies as follows:

1. The Order of January 18, 2005 required the Respondents to comply the violation by May 18, 2005, and if compliance was not met within the specified time frame, a fine of One Hundred and 00/100 Dollars ($100.00) per day, would commence and continue to accrue for each day thereafter that the violation exists.

2. The Respondent(s) violated the Order of January 18, 2005 and the Respondent(s) continue to violate the Order; therefore, the Special Magistrate imposes and certifies a fine in the amount of One Hundred and 00/100 ($100.00) per day, plus administrative costs, beginning May 18, 2005, which shall continue to accrue until the Respondents come into compliance or until a judgment is entered based upon this certification of fine. In determining the fine amount to be imposed, consideration was

FILE
FEB 13 2006
BY: CJ

(4)

Kenneth V. Hemmerle, II
Professional Association
Attorney at Law

SUITE E
1322 NORTHEAST FOURTH AVENUE
Fort Lauderdale, Florida 33304

TELEPHONE (954) 768-9116
TELECOPIER (954) 768-9117

E-mail: KVHIILAW@aol.com
www.hemmerlelaw.com

September 2, 2010

Town of Lauderdale- By- The- Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case Nos: Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2216 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2217 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2218 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2219 (Fire Sprinklers)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2220 (Fire Sprinklers)

Dear Sir or Madam:

This office represents Ocean Medical Center, L.L.C., ("Ocean") the owner of the property located at 4001 North Ocean Drive, Lauderdale-By-The-Sea, Florida 33308 ("the property"). This letter is an attachment to the Application for Relief from certain liens arising out of the above case numbers which were recorded by the Town of Lauderdale-By-The-Sea ("the Town") against Ocean's property. This letter will serve as an explanation as to why relief from the recorded liens should be granted to Ocean.

Ocean received title to the property on December 20, 2005 from Richard A. Neubauer and Winnie I. Neubauer, individually and as Trustees of the Richard A. Neubauer Revocable Trust Agreement dated September 8, 1982, as amended and restated. A copy of the Trustee's Deed is attached hereto.

On Ocean's property is a 1,500 gallon oxygen tank which serviced Ocean Hyperbaric Neurologic Center, Inc. ("Ocean Hyperbaric"), a tenant in Ocean's building.

Ocean Hyperbaric had a contract with Matheson TriGas, Inc. ("TriGas") to supply Ocean Hyperbaric with oxygen which is utilized in its business. The tank and all of the mechanical equipment and apparatus attached to the tank is and was owned by TriGas. In June, 2004 as part of its contractual relationship with Ocean Hyperbaric, TriGas determined that it was necessary to remove an existing 1,500 gallon oxygen tank that it had been supplying oxygen to from Ocean Medical's property and replace it with another 1,500 gallon oxygen tank. In June, 2004, TriGas, prior to removing the existing 1,500 gallon oxygen tank was told by a representative of Ocean Medical that a building permit had to be obtained from the Town as part of their replacing the oxygen tank.

During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). The Fire

Department investigated the incident. As a result of the Fire Department's investigation Ocean Medical was cited with code violations (Case Nos.: 04-2216, 04-2217 and 04-2218) for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned. Neither Ocean nor Ocean Hyperbaric own the oxygen tank.

Case Nos.: 04-2219 and 04-2220 involve the failure to obtain a permit for plumbing and electrical in connection with fire sprinklers in the building where the property is located. Ocean had hired a company by the name of Able Fire Sprinkler, Inc. to install the fire sprinklers. Ocean was told that the job had been finaled and approved by the Town. Ocean learned later that the work had not been finaled and approved by the Town, and that Able Fire Sprinkler went of business. Ocean then hired Carribbean Fire and Associates to take over and finish the job which they did.

After receiving the code violations in Case Nos.: 04-2216, 04-2217 and 04-2218 Richard Neubauer began a process of hiring construction professionals and design professionals to correct the code violations and pull the necessary permit which was not successful.

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr.Bradford D. Townsend, Planning and Zoning Administrator with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the meeting and discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the time that the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building

inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him, Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $200,000.00 in costs to come into compliance. Ocean should also be given relief from the liens in Case Nos.: 04-2219 and 04-2220 because Ocean had hired a contractor to install the fire sprinklers in the building, was subsequently told that the job had been finaled and approved by the Town, the company then went of business and Ocean was required to hire another fire sprinkler contractor to take over and finish the work.

Sincerely,

Kenneth V. Hemmerle, II

KVH,II
Enclosure

Subsection B & C

SECOND AMENDED CHRONOLOGY DATED APRIL 14, 2011

Case No.: 04-2219 (Plumbing Permit Required for Installation of fire sprinklers)
Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)

10/9/02 – Inspection Report from Town of Lauderdale By The Sea. Fire sprinkler system required for the first floor.

9/16/03 – Dr. Richard Neubauer signs a contract with SprinklerMatic Automatic Fire Sprinklers, Inc. to install an automatic wet pipe fire sprinkler system throughout the first floor. SprinklerMatic is unable to expedite the job and a new contract is signed with Able Fire Sprinkler, Inc. on 11/4/03.

9/17/03 – Notice of Hearing/Violation from Town of Lauderdale By The Sea – Case No.: 03-7202 (Install fire sprinkler on first floor according to code).

10/6/03 – Fine of $75.00 and a $27.50 fire re-inspection fee is paid in Case No. 03-7202. Magistrate issues order and gives 180 days to correct the violation, namely to install fire sprinkler on first floor according to code.

11/4/03 – Proposal/contract received from Able Fire Sprinkler, Inc. for installation of fire sprinkler protection for the first floor. Contract signed by both parties on 11/4/03 for a contract price of $19,785.00 – with 25% to be paid upon signing; 25% upon delivery of material; 25% on completion of first floor piping; 15% upon installation of underground piping; and 10% upon final inspection.

PLANS SUBMITTED FOR PERMIT – 12/31/03

12/31/03 – As of December 31, 2003, Able Fire Sprinkler, Inc. had completed the first floor piping. They had also requested a draw in the amount of $4,946.75. As of 12/31/03 Able Fire Sprinkler, Inc. had been paid 75% of their contract price for installation of the fire sprinkler protection system for the first floor. At this time Able Fire assured Dr. Neubauer that the plans were in permitting with Broward County and after the holidays Dr. Neubauer would have a permit card on site.

12/31/03 – Able Fire states that plans have been turned in for permitting which should take 3 weeks and job will be completed in 4 weeks from start date.

1/29/04 – Broward County Plan Review Corrections Report for Application/Permit 04-00145 for the plumbing – fire sprinklers states that the plans were rejected on 1/9/04 for 1.) Submit a site plan; 2.) Show point of service; 3.) Detail when, who, where flow test was performed; and 4.) Comply to standardized comments.

1/29/04 – 9/10/04 – Between January, 2004 and September, 2004 Dr. Neubauer through his employees/agents, Vince Reilly and Tex Janulis were constantly fighting with Able Fire Sprinkler, Inc. to obtain the permit and complete the work under the contract dated 11/4/03. At this time there was a change in fire code responsibilities from Lauderdale By The Sea to Broward County.

8/30/04 – Vince Reilly meets with John Wagner of Able Fire Sprinkler, Inc. to discuss completing the work. Mr. Reilly advises him that his company had been paid 75% of the contract price and that a permit still had not been issued.

9/10/04 – Vince Reilly, Administrative Director for Ocean Hyperbaric Neurologic Center sends a letter to John Wagner, Vice President of Able Fire Sprinkler, Inc. stating that a notice of violation had been issued by Broward County for Able Fire Sprinkler installing a fire sprinkler system without a building permit. Mr. Reilly advises him of the severity of the situation and that he must obtain the permit and show applications by a licensed contractor.

9/22/04 – Dr. Neubauer is required to hire an attorney to force Able Fire Sprinkler, Inc. to complete the job in accordance with the contract signed on 11/4/03.

9/22/04 – Dr. Neubauer's attorney, Jacob Armpreister writes a letter to Able Fire Sprinkler, Inc. stating that significant monies had been paid to Able Fire and the work has not been completed, that Able Fire had more than enough time to obtain the necessary permits and complete the work and that Able Fire had placed Ocean Medical in a tenuous position as a result of the code violations cited by Broward County. The attorney stated that unless immediate action was taken suit would be filed.

9/27/04 – Vince Reilly speaks to Jim Michaels, building inspector with the County. Mr. Michaels states that Able Fire Sprinkler needs to get the permits and submit the paperwork to the County and then they will go from there.

9/29/04 – Vince Reilly meets with attorney Armpreister to discuss the Able Fire Sprinkler matter. A decision is made to give Able Fire 5 business days to provide Broward County with the required paperwork.

10/4/04 – Vince Reilly e-mails attorney Armpreister concerning the deadline of 10/9/04. The attorney phoned and sent a letter to Able Fire Sprinkler. The decision is made to give Able Fire Sprinkler 2 days to rectify the situation and then legal proceedings will be initiated.

10/8/04 – Letter from attorney, Jacob Armpreister to Ocean Hyperbaric stating that John Wagner of Able Fire cancelled their meeting to discuss the status of the fire sprinkler system.

10/11/04 – Letter from attorney, Jacob Armpreister to Ocean Hyperbaric stating that John Wagner of Able Fire told him that in order for the fire sprinkler system project to go forward a survey of the property showing the building must be provided to the county. Mr. Wagner stated to him that the flow test had been requested and the results should be back in 7-10 days.

10/12/04 – Vince Reilly in his notes confirms that attorney Armpreister met with Able Fire Sprinkler and is told the paperwork work is being submitted to the County by Able Fire Sprinkler.

10/26/04 – Ocean Medical's attorney writes to Able Fire Sprinkler confirming his meeting with John Wagner of Able Fire on October 11, 2004 and that he had not heard from Mr. Wagner. The attorney requested that the system be tied into the water line and that a flow test be completed. The County needed the information based on their most recent inspection.

12/2/04 – Town of Lauderdale By The Sea issues written violations in Case No.: 04-2219, ("obtain plumbing permit for the installation of the fire sprinklers"); and Case No.: 04-2220, ("obtain electrical permit for the installation of the fire sprinklers").

12/4/04 – Attorney Armpreister speaks with John Wagner of Able Fire Sprinkler and is told by Mr. Wagner that he would rectify the situation as soon as possible.

12/6/04 – Attorney Armpresiter contacts Able Fire Sprinkler.

12/8/04 – Vince Reilly e-mails attorney Armpreister the documents needed to get Able Fire Sprinkler to complete the job.

12/8/04 – Attorney Jacob Armpreister writes a letter to Able Fire Sprinkler demanding that they take immediate steps to complete the job and if there are any more delays action will be taken to enforce Ocean Medical's rights.

1/10/05 – Vince Reilly writes in his notes that a DBPR (Department of Business and Professional Regulation) complaint will be filed against Able Fire Sprinkler for their failure to complete the work.

1/11/05 – Broward County issues a notice of violation to Richard Neubauer (Case No.: 05-00000017) that the fire sprinkler system was installed without a permit and that the correction deadline was February 12, 2005.

1/13/05 – Attorney Armpreister has a telephone conference with John Wagner on the status of the water line.

1/18/05 – A special magistrate hearing takes place on **Case No.: 04-2219, ("obtain plumbing permit for the installation of the fire sprinklers"); and Case No.: 04-2220, ("obtain electrical permit for the installation of the fire sprinklers").** In the minutes of the hearing Code Compliance Officer Kam Parker was present on behalf of the Town. Officer Parker stated that since the notice the Respondent (Dr. Neubauer) has been diligently trying to accomplish **achieving the permits. Officer Parker requested an extension of 90 days to accomplish achieving the permits. Officer Parker requested an extension of 90 days to complete the permitting,** a $150 administrative fee and $100 fine for each violation. John Wagner of Able Fire Sprinkler explained that the interior sprinkler system is installed, the system just needs to be connected to the water supply by the City of Fort Lauderdale (separate line for fire sprinkler). He stated this could take time because the City of Fort Lauderdale is backlogged. Both Officer Parker and Mr. Wagner clarified that previously an application for a permit for the sprinkler system was submitted, however it was returned with substantial comments and allowed to expire. Dr. Neubauer is given 120 days to comply with the code violations.

1/26/05 – Attorney Armpreister has a telephone conference with John Wagner of Able Fire Sprinkler on the status of the permit application. He also contacts SprinklerMatic for a new quote to complete the work Able Fire sprinkler had started.

2/1/05 – plans are submitted by Able Fire Sprinkler (Permit No.: 04-145).

2/9/05 – Vince Reilly speaks with SprinklerMatic and they will fax a quote on the sprinkler system by day's end.

2/22/05 – Vince Reilly speaks with attorney Armpreister about filing a suit against Able Fire Sprinkler.

2/23/05 – Attorney Armpreister has a phone conference with John Wagner of Able Fire Sprinkler on the status of the permit.

2/23/05 – Vince Reilly follows up with attorney Armpreister, e-mails him correct permit number. Mr. Reilly reviews Able Fire Sprinkler's drawing regarding 4" piping versus 6" piping.

2/28/05 – Vince Reilly meets with Tumin Engineering, Tex Janulis and Dr. Neubauer to discuss compliance with the code violations. Tumin Engineering will provide written recommendations.

3/1/05 – Vince Reilly speaks with SprinklerMatic about coming in to complete the work which had been started by Able Fire Sprinkler, Inc.

3/3/05 – Tumin Engineering provides written recommendations to Vince Reilly on the code compliance issues.

3/7/05 – Attorney Armpreister contacts Able Fire Sprinkler, Inc. and Broward County Code compliance officer, Jim Fahey regarding the status of the permit.

3/18/05 – Vince Reilly sends an e-mail to Kami Parker at Lauderdale By The Sea advising that he has placed a call to John Burton regarding the designated response level for Ocean Medical Center. He asks Ms. Parker what entity designates the level and whether it can be arbitrated.

3/28/05 – A meeting is scheduled for March 31, 2005 at 1:00 p.m. with Able Fire Sprinkler, Wilson Hernandez, P.A. (architect), attorney Armpreister, Matheson Tri-Gas, Electrical Service, Inc., Tex Janulis and Vince Reilly.

3/31/05 – Meeting takes place. Architect sends information concerning the oxygen tank and sprinkler system to his engineering staff for review. Able Fire Sprinkler reports that most items have been completed.

4/12/05 – Attorney Armpreister states to Vince Reilly that he will send a letter to Broward County and Lauderdale By The Sea Code Compliance department requesting a 120-day extension due to the County's hold up with the permits.

4/20/05 – Vince Reilly notes in an e-mail to attorney Armpreister that Able Fire Sprinkler's plans/permit **has not been looked at – still "on the shelf."**

4/27/05 – Atttorney Armpreister writes a letter to Kami Parker, Code Compliance Officer, stating that Ocean Hyperbaric continues to work toward the resolution of the code issues. He states that Broward County Building Code Services Division has not yet rendered a decision with regard to the application for permit regarding the fire sprinklers. He states that Able Fire Sprinkler had previously submitted an application for permit to the County for review. The County requested additional information and a further revised application package was submitted earlier this month. He states that upon receipt of the fire sprinkler permit from the County Ocean Hyperbaric is ready to commence work. He states that Ocean Hyperbaric has been diligently working toward resolution of the outstanding issues and is requesting an additional 90 day extension beyond the 120-day deadline as the projects cannot be completed without County approval.

5/2/05 – Attorney Armpreister writes a letter to Kami Parker requesting a hearing before the special magistrate to request an extension of time within which to complete the necessary

revisions required of Ocean Hyperbaric regarding the installation of the fire sprinklers and oxygen tank in all of the cases.

5/05 – Kami Parker writes a letter to Attorney Jacob Armpreister where she states that she does not feel that an extension of 90 days on top of the original 120 days is warranted. She states the compliance date will remain June 18, 2005. She states that Ocean Hyperbaric may request a hearing once all permits have been completed and inspected to mitigate the fine.

In May, 2005 Dr. Neubauer retained the services of attorney, Dan Taylor of Tripp Scott. This decision was due to the fact that Able Fire Sprinkler, Inc. still had not completed the work and obtained a final inspection.

5/9/05 – Vince Reilly sends an e-mail to attorneys at Tripp Scott stating that the fire sprinkler plans have yet to be reviewed by Fire and that plumbing had rejected the plans for the third time.

5/11/05 – Town of Lauderdale By The Sea issues a notice of hearing/violation in Case Nos.: 04-2219 (Plumbing permit required for installation of fire sprinklers) and 04-2220 (Electrical permit required for installation of fire sprinklers). Hearing is set for May 23, 2005 at 3:00 p.m.

5/11/05 – Dan Taylor with Tripp Scott speaks with the code compliance department and assures them everything was being done to resolve the code issues.

5/13/05 – Attorney Dan Taylor writes a letter to Kami Parker. He states that the letter will serve as his Notice of Appearance in the code violation matters, Cases #04-2216, 2217, 2218, 2219 and 2220.

5/16/05 – Attorney Dan Taylor speaks with Able Fire Sprinkler and they assure him that they will resolve the issues regarding the fire sprinkler system.

5/17/05 – Attorney Jacob Armpreister writes a letter to Jeff Bowman. He states that Dan Taylor of Tripp Scott will be handling the case and that this letter confirms that his firm is handling this matter.

5/17/05 – Attorney Dan Taylor writes a letter to Kami Parker requesting that the May 23, 2005 hearing before the special master be rescheduled until after June 18, 2005 and the permits are issued and work inspected. He states that the purpose of the hearing was to reconsider the imposition of fines and request an extension of the time for compliance.

5/19/05 – Letter from Kami Parker stating that Ocean Hyperbaric Center was removed from the code board hearing scheduled for May 23, 2005.

5/20/05 – Attorney Dan Taylor writes a letter to Kami Parker. He encloses a letter from Quinn I. Miklos, R.A. of Miklos and Associates, P.A. Architects and Planners, the architect on the project. The architect estimates that his work will be completed within 10 days from May 23, 2005. He states that he spoke with John Wagner of Able Fire Sprinkler and he advises that he will resubmit the permit application this afternoon. He states that Ocean Hyperbaric is making every effort to correct the situation that its contractors created.

6/2/05 – Ocean Hyperbaric signs a contract with Caribbean Fire & Associates, Inc. to complete the existing fire sprinkler system on the first floor which had been started but not completed by Able Fire Sprinkler, Inc. Contract price was $26,700.00.

6/13/05 – Attorney Dan Taylor of Tripp Scott writes a letter to Kami Parker. The purpose of the letter was to update her on the progress made to comply with the Special Master order. He states that regarding the installation of the oxygen tank, Lee Development Construction and James E. Lee, the owner, are responsible for obtaining the building, electrical and plumbing permits. He states that Leo of I.T. Engineers, the structural engineer, told him that the engineer's plans would be dropped off to Ocean Hyperbaric so that the plans could be submitted to the City's building department by June 14th. He stated that Robert Frank of Electrical Services, Inc. is working with Lee Development on the electrical permit as is Deveren Peterkin, another engineer consultant. The delay in getting the permit applications to the City is getting all of the contractors and consultants coordinated. The sprinklers system permits have been more problematic as John Wagner of Able Fire Sprinkler did not do the things he was going to do and failed to obtain the permit. Mr. Taylor further states in his letter that Ocean Hyperbaric expected TriGas to obtain a permit as well as the sprinkler contractor. He says it is costing Ocean Hyperbaric tens of thousands of dollars to correct a situation that it did not cause.

6/15/05 – Letter from Vince Reilly to the Florida Department of Business and Professional Regulation (DBPR) (Case No.: 2005-031526 and 2005-033564). A complaint with DBPR was been filed by Dr. Neubauer against David Z. Wagner d/b/a Able Fire Sprinkler, Inc. for failing to complete the work and failure to obtain a building permit.

6/28/05 – Attorney Dan Taylor of Tripp Scott sends a letter to Kami Parker, of Zoning Code Compliance. He states that the contractors for the oxygen tank, Jimmy Lee and the sprinkler system, Caribbean, submitted the permit applications to the City. He stated he spoke with the contractors and the permits are still undergoing review. **He stated that contractors are calling regularly to check on the status of the permits but they have been told it could take 4-5 weeks. He states that the permit applications were submitted prior to the June 18th compliance date but that he is concerned that we can no longer control the time for review.**

PERMIT OBTAINED ON JULY 1, 2005

7/1/05 – On July 1, 2005 Caribbean Fire & Associates, Inc. obtained building permit, permit no.: 05-05945 as required by Case Nos.: 04-2219 (Plumbing permit required for installation of fire sprinklers) and 04-2220 (Electrical permit required for installation of fire sprinklers).

7/6/05 – Caribbean Fire puts in a draw in the amount of $6,675.00 for permitting, design and mobilization.

8/31/05 – Notice of Commencement signed to commence work by Caribbean Fire.

9/16/05 – underground fire sprinkler inspection takes place. It generally takes 60 days for the City of Fort Lauderdale to schedule an underground water supply (main) inspection.

10/14/05 – Caribbean Fire puts in draw #2 in the amount of $13,350.00.

10/17/05 – Caribbean Fire requests a change order to the contract in the amount of $2,400.00 to upgrade from a 4 inch underground and backflow to 6 inch. Change order is signed on 10/17/05.

10/18/05 – Attorney Dan Taylor writes a letter to Kami Parker, Zoning Code Compliance. He updates her on the progress of construction to come into compliance with the notices of violation. He spoke with Caribbean Fire and the interior work has been completed but a new part for the exterior work is needed. The part was ordered and as soon as it is installed Caribbean will call for an inspection. **He states that the work by Lee Construction Development has run into obstacles as a result of the County's comments to the plans.** Tri-Gas's attempt to install the tank without the appropriate permits has resulted in what appears to be the need to completely renovate the oxygen portion of the facility. **He states that since the sprinkler notices of violation will be resolved before the oxygen tank he states that it is advisable to address them separately.** He states that he will contact her in order to schedule a hearing before the special master.

11/5/05 – Vince Reilly e-mails attorney Armpreister for an update on the Able Fire Sprinkler matter.

12/1/05 – Attorney Dan Taylor writes a letter to Jeff Bowman confirming their telephone conference on November 30, 2005. Dan Taylor had spoken with Caribbean Fire and was told the installation was finished, most of the leaks in the previously installed sprinkler lines had been repaired. He was told as soon as the leaks are fixed Caribbean Fire would call for an inspection. **Mr. Taylor states that he agrees with Mr. Bowman to go before the special magistrate as soon as the matter is finished.** Mr. Taylor states in his letter that Jimmy Lee at Lee Construction is handling the oxygen tank and the work has become more complicated. **He states that it is no longer a matter of obtaining an after-the-fact building and plumbing permit, completing the work and passing a final inspection.** He states that after going through plan review at the county it is clear that the present oxygen pad location requires major renovation or replacement and therefore a whole new set of plans may be necessary and if that is the case he will request a meeting to show staff the proposed plan prior to coming in for approvals. He should know within the next couple of weeks.

12/9/05 – Fire sprinkler inspection rough took place. Caribbean used the cpvc pipe which Able Fire Sprinkler, Inc. had installed earlier.

12/20/05 – Caribbean Fire puts in its final draw stating that 100% of the work was complete in the amount of $5,975.00. D. Neubauer pays the final draw. Dr. Neubauer, as of this date believed that the job was complete. (Note: At this time Caribbean Fire had received full payment on their contract but did not have their final inspection)

1/30/06 – The Town holds a hearing before the special magistrate on January 30, 2006 at 2:30 p.m. in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220 and issues an Order Imposing Fine/Certification of Lien. NO NOTICE OF THIS HEARING WAS PROVIDED TO DR. NEAUBAUER'S ATTORNEY, DAN TAYLOR OR TO DR. NEUBAUER prior to the date of the hearing. The Notice of Hearing was not delivered to Dr. Neubauer until February 21, 2006, some 3 weeks after the January 30, 2006 hearing. In the Notice of Hearing it states that any request for continuance may be made in writing to the Code Compliance Officer within 10 days. The Notice of Hearing states that each party has the right to call and examine witnesses. It states that any party represented by counsel must file a Notice of Appearance at least 5 days before the hearing date with the Town. It

states that if any person desires to appeal any decision regarding any matter considered at the hearing that the person will need a record of the proceedings and that any appeal must be made within 30 days. NO NOTICE OF THE JANUARY 30, 2006 HEARING WAS LEFT WITH THE MANAGER OR OTHER PERSON IN CHARGE AT THE BUILDING LOCATED AT 4001 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA AS REQUIRED BY SECTION 162.12 (1) (d) FLA. STAT. As a result of the Town providing no notice of the January 30, 2006 hearing to attorney Dan Taylor, and because no notice of the hearing was left with a manager or other person in charge at the commercial premises and because Dr. Neubauer did not receive the notice until February 21, 2006 the property owner did not attend the January 30, 2006 hearing and was therefore denied procedural due process of law.

3/9/06 – Department of Fire Rescue & Emergency Services issues a narrative that the fire sprinkler for permit no.: 05-05945 failed inspection because the system did not match the approved plans.

4/24/06 Caribbean Fire sends fax/memo to Vince Reilly stating that calls have been placed to the plumbing and fire department to obtain status on the drawings and the drawings still have not been reviewed by those officials. Caribbean Fire states that they will continue to request updates on the status of the drawings.

5/12/06 – Caribbean Fire & Associates, Inc. sends a memo to Dan Taylor, the attorney for Dr. Neubauer stating that the drawing review in both the fire and plumbing departments failed. The drawings will be available for pick up and Caribbean Fire & Associates will make the allotted corrections to the drawings.

8/06 – Caribbean Fire requests a change order to the contract and the contract price is revised by $1,982.00 to redesign the fire sprinkler system to meet requirements of Broward Fire Department and Broward Plumbing Department because the drawings originally done by Able Fire Sprinkler were insufficient.

9/5/06 – Caribbean submits a final draw stating that the work was 100% complete on September 6, 2006 in the amount of $5,082.00. The total revised contract is $31,082.00.

9/11/06 – **Department of Fire Rescue & Emergency Services performed a final inspection of the fire sprinkler system.** The inspection failed because the installation did not match the on-site plans; south stairwell had a sidewall installed that did not show on the plans; walls and partitions did not match the plans.

9/12/06 – Attorney Ken Hemmerle writes a letter on 9/12/06 to Sam Santiago of Caribbean Fire & Associates, Inc. stating that the inspection on 9/11/06 failed and that the items in the Broward Fire Department's narrative are to be corrected or addressed immediately so that another final inspection may be scheduled.

Contractor's material & test certificate for the underground piping was tested and conforms to the plans and the applicable code.

Contractor's material & test certificate for the aboveground piping was tested and conforms to the plans and the applicable code.

Backflow prevention assembly field tests reports are issued for 6" and ¾ bypass. Both tests reflect that check valves closed tight.

FINAL FIRE SPRINKLER INSPECTION IS APPROVED

11/17/06 – final fire sprinkler inspection is approved.

FACTORS RELEVANT TO THE APPLICATION FOR RELIEF

1. Nature and Gravity of the Violation.

   a. At no time did the Town or the County issue a red tag shutting down the operation of Ocean Medical Center's building for safety reasons.

2. Actions taken to Correct the Violations.

   a. As can be seen in the above chronology Dr. Neubauer and Ocean Medical went to great effort and expense over a period between September, 2003 and November, 2006 to come into compliance with the code.

3. Length of time between the ordered compliance date and the date the violations were brought into compliance.

   a. According to the order of the magistrate Dr. Neubauer had 120 days from January 18, 2005 to obtain the permits, complete the work and obtain all inspections. The ordered compliance date was May 18, 2005. The permit was obtained on July 1, 2005. The final inspection passed on November 17, 2006. During the period between May 18, 2005 and November 17, 2006, as the chronology above shows Dr. Neubauer and Ocean Medical worked diligently toward compliance. It is the position of Ocean Medical that compliance was achieved on the date the permit was issued which was July 1, 2005 based upon the language set forth in the notices of violation and based upon the position of the Town through its representative Kam Parker at the January 18, 2005 hearing as reflected in the minutes of that hearing. In the minutes of the hearing Code Compliance Officer Kam Parker was present on behalf of the Town. Officer Parker stated that since the notice the Respondent (Dr. Neubauer) has been diligently trying to accomplish **achieving the permits. Officer Parker requested an extension of 90 days to accomplish achieving the permits. Officer Parker requested an extension of 90 days to complete the permitting,** a $150 administrative fee and $100 fine for each violation. The magistrate clearly exceeded the scope of the notices of violation when he ordered that the work be completed and all inspections take place within 120 days from January 18, 2005. As the chronology shows Dr. Neubauer and Ocean Medical did not have control or had very little control over the length of time it took to complete the work and obtain all inspections. The building officials involved in plan review and inspection of the work in conjunction with the fire sprinkler contractors controlled the amount of time it took to complete the work and obtain all inspections not Dr. Neubauer and Ocean Medical. Dr. Neubauer and Ocean Medical as the chronology shows did everything in their power to expedite the completion of the work, including hiring attorneys, threatening legal action and filing a complaint with the Department of Business and Professional Regulation.

4. Actual costs expended to cure the violations. Dr. Neubauer and Ocean Medical spent **$45,920.75** between Able Fire Sprinkler and Caribbean Fire & Associates. Dr. Neubauer and Ocean Medical have also expended significant sums of money on attorneys in an effort to expedite the process.

5. Any other prior violations you committed on the subject property. There are three other cases involving the installation of an oxygen tank on the subject property. The violations were committed by Matheson TriGas, an oxygen supplier. Ocean Medical is in the process of resolving those cases. Any and all violations have been complied with.

6. Equitable Considerations. The Town through its representative, Brad Townsend, stated to Ken Hemmerle and Richard McCusker, attorneys for Ocean Medical in May/June, 2006 that the Town would only be seeking its administrative costs incurred in bringing the property owner into compliance with the code. Mr. Townsend estimated the administrative costs would be in the range of $4,000 - $6,000. Ocean Medical obtained the permit on July 1, 2005 (43 days after the ordered compliance date). Ocean Medical relied upon this representation/agreement of Mr. Townsend. The Town has not denied this because that is how liens were handled and resolved with property owners at the time the representation was made. In addition, Dan Taylor, an attorney with Tripp, Scott in Fort Lauderdale represented Dr. Neubauer in May, 2005. In early May, 2005, and prior to May 18, 2005, Mr. Taylor spoke with Mayor Parker of the Town. Mayor Parker stated to him that there was no need to go in front of the magistrate any further until the code violations were corrected and afterward present the reasons for any delays. Also, at about this time, Dan Taylor spoke with the Town's code compliance department in May, 2005 and was advised that the Town was only concerned with compliance and not with the monetary amount of the fines. This is consistent with what Brad Townsend had stated to Ocean Medical's attorneys, Ken Hemmerle and Richard McCusker in May/June, 2006. Ocean Medical justifiably relied upon the representations of the Town's representatives as well as the fact that the cited violations would be cured by the issuance of permits as it worked with the Town to resolve these matters. Ocean Medical did not have control over the length of time it took to complete the work and obtain all inspections. The building officials in plan review and who inspected the work as well as the fire sprinkler contractor controlled the amount of time it took to complete the work and obtain all inspections.

   On March 28, 2011 Attorney Ken Hemmerle obtained certified copies of the Town's files in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220. On the outside of the file in Case No.: 04-2220 there is a note, "schedule for April to Dismiss Case." Attorney Ken Hemmerle spoke with Jeff Bowman on March 29, 2011 who confirmed that the Town intends to dismiss Case No. 04-2220 (Obtain Electrical Permit For Installation of the Fire Sprinklers) and not seek the fines in this case which on the outside of the file indicate $101,400.00. This was confirmed in an e-mail to Mr. Bowman on March 29, 2011.

a. THE TOWN DID NOT PROVIDE NOTICE OF THE JANUARY 30, 2006 HEARING BEFORE SPECIAL MAGISTRATE AT WHICH THE PROPRIETY OF THE FINES AND LIENS WERE ADDRESSED

Ken Hemmerle's review of the Town's files in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220 on March 28, 2011 also revealed and uncovered the following evidence. **The Orders imposing fines/certifying liens in all of these cases were**

entered as a direct result of the Town's failure to comply with the due process notice requirements of Section 162.12 Fla. Stat. The law firm of Tripp Scott by and through attorney, Dan Taylor, filed their notice of appearance in these cases on May 13, 2005 (which is contained in the Town's files).

Dan Taylor was working with the code compliance department as well as with the mayor and other representatives of the Town regarding resolution of these violations. **In spite of this the Town failed to give Tripp Scott notice of the January 30, 2006 hearing which resulted in no representation at the hearing and the imposition of fines/liens.** Dan Taylor confirmed to Ken Hemmerle that he did not receive notice of the January 30, 2006 hearing. In fact, it was Mr. Taylor's understanding during his conversation with Jeff Bowman on November 30, 2005 (which was confirmed in a letter from Mr. Taylor to Jeff Bowman on December 1, 2005) **that he agrees with Mr. Bowman to go before the special magistrate as soon as the matter is finished.**

The attempted delivery of notice to the property owner at the Neubauer residence provided no notice. A review of the Town's files shows that the Town sent a certified letter (Article No.: 7005-0390-0004-9823-6978) on January 5, 2006 to Dr. Neubauer. An attempt to deliver the letter was made on January 7, 2006. **The U.S. Postal Service did not make delivery of the certified mail until February 21, 2006, long after the January 30, 2006 hearing before the special magistrate was held.** (See the USPS track and confirm record in the Town's file) It is clear that the letter had not been claimed as of January 30, 2006, the date of the hearing. It is also clear that there is no evidence that Dr. Neubauer was notified or received notice of the January 30, 2006 hearing before the scheduled hearing. The evidence shows that the U.S. Postal Service made delivery of the notice on February 21, 2006.

The Notice of Hearing for the January 30, 2006 states that the hearing is being conducted pursuant to Chapter 6.5 of the Lauderdale-By-The-Sea Code of Ordinances and Chapter 162, Florida Statutes. This notice provides that each party will have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses on any relevant matter.

Section 162.12 (1) (a) Fla. Stat. required that notice of the hearing be served on attorney, Dan Taylor. The Town's records show that he was not provided with notice of the January 30, 2006 hearing. **Also, the due process requirements of Section 162.12 Fla. Stat. specifically provide that in addition to sending notice to the address listed in the tax collector's office, notice is required to be sent to any other address provided to local government by the owner.** Notice was not sent to the address of the attorney of record. Failure to send to the address provided is failure to comply with the due process requirements of Section 162.12 Fla. Stat. Little v. D'aloia, 759 So.2d 17, 20 (Fla. 2d DCA 2000).

b. NO NOTICE OF THE JANUARY 30, 2006 HEARING WAS LEFT WITH THE MANAGER OR OTHER PERSON IN CHARGE AT THE COMMERCIAL PREMISES LOCATED AT 4001 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA AS REQUIRED BY SECTION 162.12 (1) (d) FLA. STAT.

Pursuant to Section 162.12 (1) (d) Fla. Stat. in the case of commercial premises notice is required to be left with the manager or other person in charge. In this case no notice of the January 30, 2006 hearing was left with a manager or other person in charge at the

commercial premises located at 4001 Ocean Drive, Lauderdale-By-The-Sea, Florida. As a result of this further violation of the statutory notice requirements of the above statute by the Town the property owner never received notice of the January 30, 2006 hearing. In the case of Massey v. Charlotte County, 842 So. 2d 142 (Fla. 2d DCA 2003), just as in this case, the property owner did not receive notice of the January 30, 2006 hearing, at which the propriety of the fines and liens were addressed or an opportunity to be heard at the January 30, 2006 hearing. The Massey case mandates and requires that the property owner, must be provided with notice and an opportunity to be heard concerning any factual determination necessary to impose a fine or create a lien. This was clearly not done by the Town because attorney, Dan Taylor, was not noticed of the January 30, 2006 hearing and there was no notice to anyone until February 21, 2006, long after the hearing and the imposition of the fines as the evidence reveals in the Town's files. *Please see* the U.S. Postal Service Track and Confirm record in the Town's file which shows that Article No.: 7005-0390-0004-9823-6978 from the Town was not delivered until February 21, 2006, long after the January 30, 2006 hearing.

The lack of notice by the Town falls squarely within the case of Massey v. Charlotte County, 842 So. 2d 142 (Fla. 2d DCA 2003). Noncompliance with the statutory requirements of Chapter 162 has resulted in invalid liens on Ocean Medical Center's property. Personal Rep., Jacobson v. Atty. Ins., 685 So. 2d 19 (Fla. 3d DCA 1996). **A lien is not acquired unless the applicable notice requirements are strictly complied with.** Personal Rep., Jacobson v. Atty. Ins., 685 So.2d 19 (Fla. 3d DCA 1996).

In addition, a violation of the due process guarantee of notice and an opportunity to be heard renders a judgment void. Viets v. American Recruiters, Inc., 922 So. 2d 1090, 1095 (Fla. 4th DCA 2006).

In Cellular v. GH Cellular, 957 So.2d 662 (Fla. 3d DCA 2007), it was argued that because a party received notice of a default judgment after execution by the trial court, its only recourse was a motion for rehearing or a direct appeal. This argument was found to be without merit. A party against whom default has been entered is entitled to notice of an order setting the matter for trial, and must be afforded an opportunity to defend. Viets v. American Recruiters Enterprises, Inc., 922 So.2d 1090, 1095 (Fla. 4th DCA 2006). **It is irrelevant that the party had notice of the default final judgment after it was entered.** The relevant notice is notice and an opportunity to be heard before the entry of a default final judgment that awarded unliquidated damages. A violation of the due process guarantee of notice and an opportunity to be heard renders a judgment void Cellular; Viets, supra. **Rule 1.540 (b) (4) provides relief from void judgments at any time.** Cellular, supra at 666. **The actions of the Town in failing to provide Dr. Neubauer with the right to be heard on the issues at the January 30, 2006 hearing by ignoring statutory requirements and not noticing counsel of record renders the orders and liens void.**

CARIBBEAN FIRE & ASSOC. INC.
3858 SW 30th Ave, Suite 109
Hollywood, FL 33312
Toll Free: 1 800 624 2281
T: 954.581.9393
F: 954.581.2896
www.CaribbeanFire.com

April 19, 2011

Tex Janulis
Ocean Medical Center, L.L.C.
4001 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)
Permit No.: 05-05945

Dear Tex:

As you know we pulled the permit for the fire sprinklers at the above commercial building for the first floor on July 1, 2005. We did not pull an electrical permit for the installation of the fire sprinkler system because it was not required. Our work has passed inspection and approved by Broward County. You informed me that the Town is claiming $101,400 in fines for the above case. You further informed me that the Town of Lauderdale-By-The-Sea through its Code Compliance Officer, Jeff Bowman, stated that it was the Town's intent to dismiss the above case because an electrical permit was not required for the installation of the fire sprinkler system. I would agree with the Town in this regard because it is not necessary for me to pull an electrical permit on any of my fire sprinkler projects to be finaled.

Very truly yours,

Sam Santiago
President

SS

24 6/4 2/4 120
31
30 No elec permit for sprinkler system
31
116 under interior remodel - 09-0181 ? ?
not required

$100 Admin / On June 4, 2005 $100 per day

~~Dis memo elec perm not Req.~~
~~agenda to dismiss - Dec 09~~

Fines began 6-5-2005 at 100$ per day
and ran till 3-14-2008
1013 days x 100$ = $101,300.00
Plus $100 admin fee = 101,400.00 Total.

Schedule for
April to
Dismiss
Case.

12-16

~~Final electrical~~
~~Failed 2-27-06~~

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED by my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

28th day of March, 20 11

[illegible] Town clerk

Subsection D

Costs encountered by Ocean Medical Center - Sprinkler Systems	
Vendor	Approximate Amount Paid
Able Fire Sprinkler	$19,500.00
Caribbean Fire	$26,000.00
Attorney's Fees	$15,000.00
Broward County Building Department	$2,800.00
Total Paid	$63,300.00

Subsection F

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

May 11, 2011

Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Town of Lauderdale-By-The-Sea v. Richard Neubauer, et al
Case No.: 04-2219 (Fire Sprinklers)

Dear Town of Lauderdale-By-The-Sea:

As you are aware, the Town of Lauderdale-By-The-Sea (Town) has informed Ocean Medical Center, LLC, a/k/a Neubauer Hyperbaric Neurologic Center, Inc. (OMC), that there are accumulated fines in the above referenced case. According to numerous conversations with representatives of the Town whom assured us that the Town was only interested in collecting administrative fees in the above referenced case, OMC is offering $2,500.00 to settle this case based upon the information provided in our second Application for Relief from Code Enforcement Fines or Liens and an explanatory letter from attorney Kenneth V. Hemmerle, II, Esq., dated September 2, 2010.

We would appreciate your prompt consideration to resolve this matter as it has been continuing on for years and has caused an extreme financial burden on OMC.

Sincerely,

Winnie Neubauer

Winnie Neubauer
Owner

Exhibit 5

TOWN OF LAUDERDALE-BY-THE-SEA

4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Tel: (954) 776-0576
Fax: (954) 776-1857

W.I.N. 5/12/11

APPLICATION FOR RELIEF FROM CODE ENFORCEMENT FINES OR LIENS

* No application will be accepted or processed unless all violations on the property have been placed in compliance by Code Enforcement

CASE # Case / # 04-2220

TOWN OF LAUDERDALE-BY-THE-SEA vs. Richard Neubauer Richard A. Neubauer Revocable Trust
(Name of Respondent(s) as listed)

NAME OF APPLICANT: (Print): Winnie I. Neubauer, Manager of Ocean Medical Center, L.L.C. (Owner of Property.)
(Person to attend Hearing)

ADDRESS OF APPLICANT: 4001 North Ocean Drive
(Full mailing address) Lauderdale-By-The-Sea, FL 33308

PHONE NUMBER: 954-771-4000

ADDRESS OF PROPERTY: 4001 North Ocean Drive
(Where violation(s) existed) Lauderdale-By-The-Sea, FL 33308

NATURE OF VIOLATION: Code Violations for failure of a VENDOR (Matheson Tri-Gas) to obtain a building permit before changing out an existing 1,500 gallon oxygen tank.

THIS PROPERTY CURRENTLY IS ☐ IS NOT ☒ (check one) INVOLVED IN LITIGATION

All Applications for Relief (where applicable) MUST have the following documentation provided as part of the Application to be reviewed:

N/A 1. A copy of the Notice of Lis Pendens recorded with Broward County Records with the date, book and page shown;
N/A 2. A copy of the Foreclosure Complaint;
3. A copy of the Foreclosure Order, with the recording date, book and page shown;
4. A copy of the Final Summary Judgment of Foreclosure, with the recording date, book and page shown;
5. A copy of the Certification of Lien Order, with the recording date, book and page shown;
6. A copy of the new Certificate of Title, with the recording date, book and page shown;
7. A copy of the Town's Final Order of Imposition of Fine; and
8. A copy of the Claim of Lien(s) with the recording date, book and page shown.

Please provide a copy of these requirements with all Applications for Relief.

LAUDERDALE-BY-THE-SEA RECEIVED MAY 12 2011 DEVELOPMENT SERVICES

FACTORS RELEVANT TO APPLICATIONS FOR RELIEF:

A. The nature and gravity of the violation(s);
B. Any actions you have taken to correct the violation(s);
C. The length of time between the previously ordered compliance date and the date the violation(s) was brought into compliance;
D. Any actual costs you expended to cure the violation(s), if supported by documentation;
E. Any other prior or current violations committed on the subject property or upon any other property you own within the Town; and
F. Equitable considerations.

WHY RELIEF SHOULD BE GRANTED (This section must be completed and, at a minimum, should address the above factors): See Attached

(Attach additional pages if needed, along with any supporting documentation)

IF APPLICABLE:
Name Of Attorney/Representative: _____

Address: _____

Phone Number: _____

I CERTIFY THAT I am the current owner of the subject property or an Attorney for said owner, or that I am the legal representative for the property or otherwise authorized to act on behalf of the property owner in this matter.

Virginia Newbauer — Signature of Applicant

5/12/11 — Date

(NOTE: Proof of such lawful authority or written authorization from the property owner must be provided by the applicant prior to this matter proceeding.)

Subsection A

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

There are 5 cases encompassing the code violations pertaining to Ocean Medical Center. Two cases deal with fire sprinklers being installed without a permit (Dr. Neubauer hired a sprinkler company in 2003) and three cases deal with an oxygen tank being replaced without a permit (Dr. Neubauer hired an architect and general contractor in 2004). ALL OF WHOM WERE PAID TO CORRECT THE VIOLATIONS and were all fired by Dr. Neubauer for lack of contractual agreements in 2005. (After this year and one half delay, a new general contractor and architect and sprinkler company were hired.) Let it be known that ALL of the above construction issues were performed by "reputable" companies, whom were hired in good faith by Dr. Neubauer, in an effort to maintain a safe environment for his building and his business. All companies took the money for their work, but unbeknownst to Dr. Neubauer, neither company obtained permits for the work that they performed. The vendor, Tri-Gas told Dr. Neubauer that they did not need a permit to change out the oxygen tank since it was a replacement tank of the same size and use. Attached please find opinions stated by the new contractors who eventually completed and CO'ed the projects, A & A Construction, Caribbean Fire and Dixie Plumbing.

Fire Sprinklers

In 2003, Dr. Neubauer hires a fire sprinkler company to install sprinklers on the first floor of his building. The contractor is paid 75% of the contract price, applies for the permit, but never obtains it. Dr. Neubauer does everything in his power to obtain the permit and complete the work by hiring attorneys and filing a DBPR Complaint, all to no avail.

Dr. Neubauer hires another fire sprinkler contractor who is able to get the permit on 07/01/05, finish the work and obtain a final inspection. It took time because inspections failed since the first contractor's plans did not match up to the work done by the second contractor. Plans had to be revised. On 11/17/06, the final fire inspection is approved.

The chronology shows that Dr. Neubauer and his staff, his attorneys and the contractor kept the Town constantly abreast of the progress at all times. The Notices of Violation said to obtain a plumbing permit for the installation of the sprinklers and obtain an electrical permit for the installation of the sprinklers. The Notice **DID NOT SAY "COMPLETE THE WORK AND OBTAIN ALL INSPECTIONS"**.

On 01/18/05, the magistrate said to obtain the permit, complete the work and obtain all inspections in 120 days. This is an IMPOSSIBLE TASK given the fact that:

(1) The first contractor would not or could not obtain the permit and Dr. Neubauer had a contract with them; and

(2) The amount of time to obtain the permit and complete the work was controlled by the building officials in plan review and the contractors doing the work and obtaining the inspections.

The magistrate went beyond what the Town as asking for. THE TOWN WAS ASKING FOR "OBTAIN A PERMIT ONLY".

At all times, the building was never "red tagged" and never found to be unsafe.

When attorney Kenneth Hemmerle met with Brad Townsend in May/June, 006, he said the Town only seeks to recover it administrative costs once the owner comes into compliance and is only interested in compliance, not fines. He estimated them to be around $4,000.00 to $6,000.00. NOTE: There is a note in the Town's file for one of the cases to schedule in April, 2011 to dismiss. This was confirmed by Mr. Bowman, and the reason is that an electrical permit for the sprinklers was not required. (We have a letter to that effect from the Fire Sprinkler Company.)

On January 30, 006, a hearing was held by the magistrate to impose the fines and liens. This is where the propriety of the liens and fines were addressed.

Dr. Neubauer's prior attorney, Dan Taylor of Tripp Scott, put in his notice of appearance with the Town in May, 2005. He was in regular contact with Jeff Bowman and Kami Parker throughout 2005. There is a letter dated 12/01/05 where Mr. Taylor spoke with Mr. Bowman on 11/30/05 and they agreed not to go in front of the magistrate until the work on the fire sprinklers was complete.

Mr. Bowman sends out a Notice on January 5, 2006 to Dr. Neubauer' residence stating that the hearing in front of the magistrate is set for January 30, 006. The notice is not delivered to Dr. Neubauer by the U.S. Postal Service until February 21, 2006, THREE WEEKS AFTER THE HEARING where fines were imposed. NO NOTICE was provided to Dan Taylor – the statute requires this. NO NOTICE was delivered to a person in charge at the building – the statute requires this. Dr. Neubauer did not have any opportunity to present any witnesses or evidence as the Notice provided for because NO NOTICE WAS PROVIDED. In prior hearings before the magistrate, Dr. Neubauer was represented by attorneys, contractors and an architect. Certainly, Mr. Bowman or the magistrate could have inquired about whether notice had be provided before conducting the hearing, namely; Did the attorney get notice? Did the owner get notice? Was notice delivered to

the building to a person in charge? Did they not think it strange that NOBODY showed up, whereupon up until this time Dr. Neubauer always showed up and with an entourage of professionals of interest to the issues at hand AND totally out of character??

Oxygen Tank

All of the Notice issues/problems are pretty much the same because the Town has lumped all of the cases together, only with the tank, there were multiple hold-ups from the County and Town inspectors and multiple "mid-stream" changes from the County and the Town inspectors.

Similarly, a contractor/vendor changed out and existing tank that the vendor owned without a permit. The scope of the project was much larger than simply obtaining an "after the fact" permit and having the inspections.

Major construction was necessary, multiple tests were required and significant amounts of time and money were consumed with meetings with the building officials, changes in the plans from the County's plan review process and throughout the process, as each new inspector that became involved added new requirements that the prior inspectors did not require, causing additional new architectural plans, additional meetings with the building department, additional time and additional money. Yet despite all of the struggles, battles, time and money, Ocean Medical Center has consistently continued to "do the right thing" and meet all of the challenges thrown at them by the County and the Town, in an effort to be in compliance with the County and the Town codes and ordinances.

TRIPP SCOTT

Attorneys At Law
A Professional Association

DANIEL E. TAYLOR
(954) 760-4926
email: det@trippscott.com

May 13, 2005

VIA TELECOPIER: 954-776-1857
Lauderdale by-the-Sea
Zoning Code Compliance
Attn: Kami Parker
4501 Ocean Drive
Lauderdale-by-the-Sea, Florida 33308-3610

RE: Ocean Hyperbaric Center
Notice of Appearance
NOV Cases #04-2216,2217,2218,2219 and 2220

Dear Ms. Parker:

This letter is to serve as a notice of appearance by the law firm of Tripp Scott in the subject code violation matters concerning Ocean Hyperbaric Center. You and I have discussed the Special Master hearing scheduled for May 23, 2005 and I will contact you in the beginning of next week concerning that hearing.

Please call me if you have questions.

Sincerely,

Daniel E. Taylor
For the Firm

DET:kkb

358295v:1 991857.0002

Exhibit A

UNITED STATES POSTAL SERVICE

Home | Help | Sign In

Track & Confirm FAQs

Track & Confirm

Search Results

Label/Receipt Number: 7005 0390 0004 9823 6978
Detailed Results:

- **Delivered, February 21, 2006, 8:40 am, POMPANO BEACH, FL 33060**
- **Notice Left, January 07, 2006, 1:12 pm, POMPANO BEACH, FL 33062**

< Back

Return to USPS.com Home >

Track & Confirm

Enter Label/Receipt Number.

Go >

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard A. Neubauer
A Trust Richard A. Neubauer
Revocable Trust
Ocean Hyperbaric Surgical
1584 SE 19th Avenue
Lauderdale By The Sea FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
NOH. 04-2216, 04-2217, 04-2218, 04-2219, 04-2220
mailed 1/5/06

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 0390 0004 9823 6978

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Premier Accounts
Privacy Policy

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard Neubauer
Revocable Trust
1584 SE 19th Avenue
Lauderdale by the Sea, FL 33062

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) W Jawdis | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No
Case NO: 04-2216, 04-2217, 04-2218, 04-2219, 04-2220
mailed 2-14-04

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7005 2570 0000 9026 5305

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Exhibit B

A&A Construction Co.

432 NE 26 ST

Wilton Manors, FL 33305

Lic. CBCO36329

Ph: 954-565-5740

Fax 954-533-4028

To whom it may concern:

Re: Ocean Hyperbaric/Ocean Medical 5/11/11

A&A involvement on this particular job started on 2006 and still on going,
Our involvement was to secure an after the fact permit to encase the new Matheson Tri-Gas tank that was change out without a permit.

My job to secure approved plans changed so many times during the permit process due to the building department comments.
It was easier to obtain permit for the first floor reconstruction than it was to get the 06 permit approved and finaled out.

We are currently working on the 2010 permit required by the building department before the city allowed us to secure the'09 building permit.

I believe the responsibility for the occurred delays on the '06 & '09 permits was not the fault of the owners but the never ending, changing requests of the building departments.

Gary Ansley
A & A Construction
Lic #: CBCO36329

CARIBBEAN FIRE & ASSOC. INC.
3858 SW 30th Ave, Suite 109
Hollywood, FL 33312
Toll Free: 1 800 624 2281
T: 954.581.9393
F: 954.581.2896
www.CaribbeanFire.com

April 19, 2011

Tex Janulis
Ocean Medical Center, L.L.C.
4001 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)
Permit No.: 05-05945

Dear Tex:

As you know we pulled the permit for the fire sprinklers at the above commercial building for the first floor on July 1, 2005. We did not pull an electrical permit for the installation of the fire sprinkler system because it was not required. Our work has passed inspection and approved by Broward County. You informed me that the Town is claiming $101,400 in fines for the above case. You further informed me that the Town of Lauderdale-By-The-Sea through its Code Compliance Officer, Jeff Bowman, stated that it was the Town's intent to dismiss the above case because an electrical permit was not required for the installation of the fire sprinkler system. I would agree with the Town in this regard because it is not necessary for me to pull an electrical permit on any of my fire sprinkler projects to be finaled.

Very truly yours,

Sam Santiago
President

SS

DIXIE PLUMBING SERVICE, INC.

LIC. CFC-019074 TAX ID 59-1375979
1900 N. Andrews Avenue Extension, Suite B
Pompano Beach, Fl 33069
Telephone: 954 972-9595 Facsimile: 954 972-3380
E-Mail patty@dixieplumbing.com

To Whom it may concern:

Re: Ocean Hyperbaric / Ocean Medical
05-10-11

As it may be, I have never been involved in a job where the "approved plan" changed so many times during the permit process, due to building department comments. Without recreating the specific dates and times, we started this particular job in 2006 and finished in December of 2010. Our involvement was to assist in securing and "after the fact" permit for the replacement of a liquid oxygen tank that was changed out by Matheson Tri-Gas. We were not involved in the " change-out" but asked if we could get the tank change-out permitted. Notwithstanding destruction of property from the oxygen chamber fire, it was easier to obtain a permit for the first floor reconstruction than it was to get the original "06" permit approved and finaled out. The responsibility for the incurred delays, in my opinion, was not the fault of the owner, but of the ever changing request of the building department.

Albert C. Korelishn
CFC 019074
Dixie plumbing Service, Inc.
Member of the Broward County Board of Rules an Appeals from 1980 to 2010
Member of the Construction Industry Licensing Board since 2010 to present

Subsection B & C

SECOND AMENDED CHRONOLOGY DATED APRIL 14, 2011

Case No.: 04-2219 (Plumbing Permit Required for Installation of fire sprinklers)
Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)

10/9/02 – Inspection Report from Town of Lauderdale By The Sea. Fire sprinkler system required for the first floor.

9/16/03 – Dr. Richard Neubauer signs a contract with SprinklerMatic Automatic Fire Sprinklers, Inc. to install an automatic wet pipe fire sprinkler system throughout the first floor. SprinklerMatic is unable to expedite the job and a new contract is signed with Able Fire Sprinkler, Inc. on 11/4/03.

9/17/03 – Notice of Hearing/Violation from Town of Lauderdale By The Sea – Case No.: 03-7202 (Install fire sprinkler on first floor according to code).

10/6/03 – Fine of $75.00 and a $27.50 fire re-inspection fee is paid in Case No. 03-7202. Magistrate issues order and gives 180 days to correct the violation, namely to install fire sprinkler on first floor according to code.

11/4/03 – Proposal/contract received from Able Fire Sprinkler, Inc. for installation of fire sprinkler protection for the first floor. Contract signed by both parties on 11/4/03 for a contract price of $19,785.00 – with 25% to be paid upon signing; 25% upon delivery of material; 25% on completion of first floor piping; 15% upon installation of underground piping; and 10% upon final inspection.

PLANS SUBMITTED FOR PERMIT – 12/31/03

12/31/03 – As of December 31, 2003, Able Fire Sprinkler, Inc. had completed the first floor piping. They had also requested a draw in the amount of $4,946.75. As of 12/31/03 Able Fire Sprinkler, Inc. had been paid 75% of their contract price for installation of the fire sprinkler protection system for the first floor. At this time Able Fire assured Dr. Neubauer that the plans were in permitting with Broward County and after the holidays Dr. Neubauer would have a permit card on site.

12/31/03 – Able Fire states that plans have been turned in for permitting which should take 3 weeks and job will be completed in 4 weeks from start date.

1/29/04 – Broward County Plan Review Corrections Report for Application/Permit 04-00145 for the plumbing – fire sprinklers states that the plans were rejected on 1/9/04 for 1.) Submit a site plan; 2.) Show point of service; 3.) Detail when, who, where flow test was performed; and 4.) Comply to standardized comments.

1/29/04 – 9/10/04 – Between January, 2004 and September, 2004 Dr. Neubauer through his employees/agents, Vince Reilly and Tex Janulis were constantly fighting with Able Fire Sprinkler, Inc. to obtain the permit and complete the work under the contract dated 11/4/03. At this time there was a change in fire code responsibilities from Lauderdale By The Sea to Broward County.

8/30/04 – Vince Reilly meets with John Wagner of Able Fire Sprinkler, Inc. to discuss completing the work. Mr. Reilly advises him that his company had been paid 75% of the contract price and that a permit still had not been issued.

9/10/04 – Vince Reilly, Administrative Director for Ocean Hyperbaric Neurologic Center sends a letter to John Wagner, Vice President of Able Fire Sprinkler, Inc. stating that a notice of violation had been issued by Broward County for Able Fire Sprinkler installing a fire sprinkler system without a building permit. Mr. Reilly advises him of the severity of the situation and that he must obtain the permit and show applications by a licensed contractor.

9/22/04 – Dr. Neubauer is required to hire an attorney to force Able Fire Sprinkler, Inc. to complete the job in accordance with the contract signed on 11/4/03.

9/22/04 – Dr. Neubauer's attorney, Jacob Armpreister writes a letter to Able Fire Sprinkler, Inc. stating that significant monies had been paid to Able Fire and the work has not been completed, that Able Fire had more than enough time to obtain the necessary permits and complete the work and that Able Fire had placed Ocean Medical in a tenuous position as a result of the code violations cited by Broward County. The attorney stated that unless immediate action was taken suit would be filed.

9/27/04 – Vince Reilly speaks to Jim Michaels, building inspector with the County. Mr. Michaels states that Able Fire Sprinkler needs to get the permits and submit the paperwork to the County and then they will go from there.

9/29/04 – Vince Reilly meets with attorney Armpreister to discuss the Able Fire Sprinkler matter. A decision is made to give Able Fire 5 business days to provide Broward County with the required paperwork.

10/4/04 – Vince Reilly e-mails attorney Armpreister concerning the deadline of 10/9/04. The attorney phoned and sent a letter to Able Fire Sprinkler. The decision is made to give Able Fire Sprinkler 2 days to rectify the situation and then legal proceedings will be initiated.

10/8/04 – Letter from attorney, Jacob Armpreister to Ocean Hyperbaric stating that John Wagner of Able Fire cancelled their meeting to discuss the status of the fire sprinkler system.

10/11/04 – Letter from attorney, Jacob Armpreister to Ocean Hyperbaric stating that John Wagner of Able Fire told him that in order for the fire sprinkler system project to go forward a survey of the property showing the building must be provided to the county. Mr. Wagner stated to him that the flow test had been requested and the results should be back in 7-10 days.

10/12/04 – Vince Reilly in his notes confirms that attorney Armpreister met with Able Fire Sprinkler and is told the paperwork work is being submitted to the County by Able Fire Sprinkler.

10/26/04 – Ocean Medical's attorney writes to Able Fire Sprinkler confirming his meeting with John Wagner of Able Fire on October 11, 2004 and that he had not heard from Mr. Wagner. The attorney requested that the system be tied into the water line and that a flow test be completed. The County needed the information based on their most recent inspection.

12/2/04 – Town of Lauderdale By The Sea issues written violations in Case No.: 04-2219, ("obtain plumbing permit for the installation of the fire sprinklers"); and Case No.: 04-2220, ("obtain electrical permit for the installation of the fire sprinklers").

12/4/04 – Attorney Armpreister speaks with John Wagner of Able Fire Sprinkler and is told by Mr. Wagner that he would rectify the situation as soon as possible.

12/6/04 – Attorney Armpresiter contacts Able Fire Sprinkler.

12/8/04 – Vince Reilly e-mails attorney Armpreister the documents needed to get Able Fire Sprinkler to complete the job.

12/8/04 – Attorney Jacob Armpreister writes a letter to Able Fire Sprinkler demanding that they take immediate steps to complete the job and if there are any more delays action will be taken to enforce Ocean Medical's rights.

1/10/05 – Vince Reilly writes in his notes that a DBPR (Department of Business and Professional Regulation) complaint will be filed against Able Fire Sprinkler for their failure to complete the work.

1/11/05 – Broward County issues a notice of violation to Richard Neubauer (Case No.: 05-00000017) that the fire sprinkler system was installed without a permit and that the correction deadline was February 12, 2005.

1/13/05 – Attorney Armpreister has a telephone conference with John Wagner on the status of the water line.

1/18/05 – A special magistrate hearing takes place on **Case No.: 04-2219, ("obtain plumbing permit for the installation of the fire sprinklers"); and Case No.: 04-2220, ("obtain electrical permit for the installation of the fire sprinklers").** In the minutes of the hearing Code Compliance Officer Kam Parker was present on behalf of the Town. Officer Parker stated that since the notice the Respondent (Dr. Neubauer) has been diligently trying to accomplish **achieving the permits. Officer Parker requested an extension of 90 days to accomplish achieving the permits. Officer Parker requested an extension of 90 days to complete the permitting,** a $150 administrative fee and $100 fine for each violation. John Wagner of Able Fire Sprinkler explained that the interior sprinkler system is installed, the system just needs to be connected to the water supply by the City of Fort Lauderdale (separate line for fire sprinkler). He stated this could take time because the City of Fort Lauderdale is backlogged. Both Officer Parker and Mr. Wagner clarified that previously an application for a permit for the sprinkler system was submitted, however it was returned with substantial comments and allowed to expire. Dr. Neubauer is given 120 days to comply with the code violations.

1/26/05 – Attorney Armpreister has a telephone conference with John Wagner of Able Fire Sprinkler on the status of the permit application. He also contacts SprinklerMatic for a new quote to complete the work Able Fire sprinkler had started.

2/1/05 – plans are submitted by Able Fire Sprinkler (Permit No.: 04-145).

2/9/05 – Vince Reilly speaks with SprinklerMatic and they will fax a quote on the sprinkler system by day's end.

2/22/05 – Vince Reilly speaks with attorney Armpreister about filing a suit against Able Fire Sprinkler.

2/23/05 – Attorney Armpreister has a phone conference with John Wagner of Able Fire Sprinkler on the status of the permit.

2/23/05 – Vince Reilly follows up with attorney Armpreister, e-mails him correct permit number. Mr. Reilly reviews Able Fire Sprinkler's drawing regarding 4" piping versus 6" piping.

2/28/05 – Vince Reilly meets with Tumin Engineering, Tex Janulis and Dr. Neubauer to discuss compliance with the code violations. Tumin Engineering will provide written recommendations.

3/1/05 – Vince Reilly speaks with SprinklerMatic about coming in to complete the work which had been started by Able Fire Sprinkler, Inc.

3/3/05 – Tumin Engineering provides written recommendations to Vince Reilly on the code compliance issues.

3/7/05 – Attorney Armpreister contacts Able Fire Sprinkler, Inc. and Broward County Code compliance officer, Jim Fahey regarding the status of the permit.

3/18/05 – Vince Reilly sends an e-mail to Kami Parker at Lauderdale By The Sea advising that he has placed a call to John Burton regarding the designated response level for Ocean Medical Center. He asks Ms. Parker what entity designates the level and whether it can be arbitrated.

3/28/05 – A meeting is scheduled for March 31, 2005 at 1:00 p.m. with Able Fire Sprinkler, Wilson Hernandez, P.A. (architect), attorney Armpreister, Matheson Tri-Gas, Electrical Service, Inc., Tex Janulis and Vince Reilly.

3/31/05 – Meeting takes place. Architect sends information concerning the oxygen tank and sprinkler system to his engineering staff for review. Able Fire Sprinkler reports that most items have been completed.

4/12/05 – Attorney Armpreister states to Vince Reilly that he will send a letter to Broward County and Lauderdale By The Sea Code Compliance department requesting a 120-day extension due to the County's hold up with the permits.

4/20/05 – Vince Reilly notes in an e-mail to attorney Armpreister that Able Fire Sprinkler's plans/permit **has not been looked at – still "on the shelf."**

4/27/05 – Atttorney Armpreister writes a letter to Kami Parker, Code Compliance Officer, stating that Ocean Hyperbaric continues to work toward the resolution of the code issues. He states that Broward County Building Code Services Division has not yet rendered a decision with regard to the application for permit regarding the fire sprinklers. He states that Able Fire Sprinkler had previously submitted an application for permit to the County for review. The County requested additional information and a further revised application package was submitted earlier this month. He states that upon receipt of the fire sprinkler permit from the County Ocean Hyperbaric is ready to commence work. He states that Ocean Hyperbaric has been diligently working toward resolution of the outstanding issues and is requesting an additional 90 day extension beyond the 120-day deadline as the projects cannot be completed without County approval.

5/2/05 – Attorney Armpreister writes a letter to Kami Parker requesting a hearing before the special magistrate to request an extension of time within which to complete the necessary

revisions required of Ocean Hyperbaric regarding the installation of the fire sprinklers and oxygen tank in all of the cases.

5/05 – Kami Parker writes a letter to Attorney Jacob Armpreister where she states that she does not feel that an extension of 90 days on top of the original 120 days is warranted. She states the compliance date will remain June 18, 2005. She states that Ocean Hyperbaric may request a hearing once all permits have been completed and inspected to mitigate the fine.

In May, 2005 Dr. Neubauer retained the services of attorney, Dan Taylor of Tripp Scott. This decision was due to the fact that Able Fire Sprinkler, Inc. still had not completed the work and obtained a final inspection.

5/9/05 – Vince Reilly sends an e-mail to attorneys at Tripp Scott stating that the fire sprinkler plans have yet to be reviewed by Fire and that plumbing had rejected the plans for the third time.

5/11/05 – Town of Lauderdale By The Sea issues a notice of hearing/violation in Case Nos.: 04-2219 (Plumbing permit required for installation of fire sprinklers) and 04-2220 (Electrical permit required for installation of fire sprinklers). Hearing is set for May 23, 2005 at 3:00 p.m.

5/11/05 – Dan Taylor with Tripp Scott speaks with the code compliance department and assures them everything was being done to resolve the code issues.

5/13/05 – Attorney Dan Taylor writes a letter to Kami Parker. He states that the letter will serve as his Notice of Appearance in the code violation matters, Cases #04-2216, 2217, 2218, 2219 and 2220.

5/16/05 – Attorney Dan Taylor speaks with Able Fire Sprinkler and they assure him that they will resolve the issues regarding the fire sprinkler system.

5/17/05 – Attorney Jacob Armpreister writes a letter to Jeff Bowman. He states that Dan Taylor of Tripp Scott will be handling the case and that this letter confirms that his firm is handling this matter.

5/17/05 – Attorney Dan Taylor writes a letter to Kami Parker requesting that the May 23, 2005 hearing before the special master be rescheduled until after June 18, 2005 and the permits are issued and work inspected. He states that the purpose of the hearing was to reconsider the imposition of fines and request an extension of the time for compliance.

5/19/05 – Letter from Kami Parker stating that Ocean Hyperbaric Center was removed from the code board hearing scheduled for May 23, 2005.

5/20/05 – Attorney Dan Taylor writes a letter to Kami Parker. He encloses a letter from Quinn I. Miklos, R.A. of Miklos and Associates, P.A. Architects and Planners, the architect on the project. The architect estimates that his work will be completed within 10 days from May 23, 2005. He states that he spoke with John Wagner of Able Fire Sprinkler and he advises that he will resubmit the permit application this afternoon. He states that Ocean Hyperbaric is making every effort to correct the situation that its contractors created.

6/2/05 – Ocean Hyperbaric signs a contract with Caribbean Fire & Associates, Inc. to complete the existing fire sprinkler system on the first floor which had been started but not completed by Able Fire Sprinkler, Inc. Contract price was $26,700.00.

6/13/05 – Attorney Dan Taylor of Tripp Scott writes a letter to Kami Parker. The purpose of the letter was to update her on the progress made to comply with the Special Master order. He states that regarding the installation of the oxygen tank, Lee Development Construction and James E. Lee, the owner, are responsible for obtaining the building, electrical and plumbing permits. He states that Leo of I.T. Engineers, the structural engineer, told him that the engineer's plans would be dropped off to Ocean Hyperbaric so that the plans could be submitted to the City's building department by June 14th. He stated that Robert Frank of Electrical Services, Inc. is working with Lee Development on the electrical permit as is Deveren Peterkin, another engineer consultant. The delay in getting the permit applications to the City is getting all of the contractors and consultants coordinated. The sprinklers system permits have been more problematic as John Wagner of Able Fire Sprinkler did not do the things he was going to do and failed to obtain the permit. Mr. Taylor further states in his letter that Ocean Hyperbaric expected TriGas to obtain a permit as well as the sprinkler contractor. He says it is costing Ocean Hyperbaric tens of thousands of dollars to correct a situation that it did not cause.

6/15/05 – Letter from Vince Reilly to the Florida Department of Business and Professional Regulation (DBPR) (Case No.: 2005-031526 and 2005-033564). A complaint with DBPR was been filed by Dr. Neubauer against David Z. Wagner d/b/a Able Fire Sprinkler, Inc. for failing to complete the work and failure to obtain a building permit.

6/28/05 – Attorney Dan Taylor of Tripp Scott sends a letter to Kami Parker, of Zoning Code Compliance. He states that the contractors for the oxygen tank, Jimmy Lee and the sprinkler system, Caribbean, submitted the permit applications to the City. He stated he spoke with the contractors and the permits are still undergoing review. **He stated that contractors are calling regularly to check on the status of the permits but they have been told it could take 4-5 weeks. He states that the permit applications were submitted prior to the June 18th compliance date but that he is concerned that we can no longer control the time for review.**

PERMIT OBTAINED ON JULY 1, 2005

7/1/05 – On July 1, 2005 Caribbean Fire & Associates, Inc. obtained building permit, permit no.: 05-05945 as required by Case Nos.: 04-2219 (Plumbing permit required for installation of fire sprinklers) and 04-2220 (Electrical permit required for installation of fire sprinklers).

7/6/05 – Caribbean Fire puts in a draw in the amount of $6,675.00 for permitting, design and mobilization.

8/31/05 – Notice of Commencement signed to commence work by Caribbean Fire.

9/16/05 – underground fire sprinkler inspection takes place. It generally takes 60 days for the City of Fort Lauderdale to schedule an underground water supply (main) inspection.

10/14/05 – Caribbean Fire puts in draw #2 in the amount of $13,350.00.

10/17/05 – Caribbean Fire requests a change order to the contract in the amount of $2,400.00 to upgrade from a 4 inch underground and backflow to 6 inch. Change order is signed on 10/17/05.

10/18/05 – Attorney Dan Taylor writes a letter to Kami Parker, Zoning Code Compliance. He updates her on the progress of construction to come into compliance with the notices of violation. He spoke with Caribbean Fire and the interior work has been completed but a new part for the exterior work is needed. The part was ordered and as soon as it is installed Caribbean will call for an inspection. **He states that the work by Lee Construction Development has run into obstacles as a result of the County's comments to the plans.** Tri-Gas's attempt to install the tank without the appropriate permits has resulted in what appears to be the need to completely renovate the oxygen portion of the facility. **He states that since the sprinkler notices of violation will be resolved before the oxygen tank he states that it is advisable to address them separately.** He states that he will contact her in order to schedule a hearing before the special master.

11/5/05 – Vince Reilly e-mails attorney Armpreister for an update on the Able Fire Sprinkler matter.

12/1/05 – Attorney Dan Taylor writes a letter to Jeff Bowman confirming their telephone conference on November 30, 2005. Dan Taylor had spoken with Caribbean Fire and was told the installation was finished, most of the leaks in the previously installed sprinkler lines had been repaired. He was told as soon as the leaks are fixed Caribbean Fire would call for an inspection. **Mr. Taylor states that he agrees with Mr. Bowman to go before the special magistrate as soon as the matter is finished.** Mr. Taylor states in his letter that Jimmy Lee at Lee Construction is handling the oxygen tank and the work has become more complicated. **He states that it is no longer a matter of obtaining an after-the-fact building and plumbing permit, completing the work and passing a final inspection.** He states that after going through plan review at the county it is clear that the present oxygen pad location requires major renovation or replacement and therefore a whole new set of plans may be necessary and if that is the case he will request a meeting to show staff the proposed plan prior to coming in for approvals. He should know within the next couple of weeks.

12/9/05 – Fire sprinkler inspection rough took place. Caribbean used the cpvc pipe which Able Fire Sprinkler, Inc. had installed earlier.

12/20/05 – Caribbean Fire puts in its final draw stating that 100% of the work was complete in the amount of $5,975.00. D. Neubauer pays the final draw. Dr. Neubauer, as of this date believed that the job was complete. (Note: At this time Caribbean Fire had received full payment on their contract but did not have their final inspection)

1/30/06 – The Town holds a hearing before the special magistrate on January 30, 2006 at 2:30 p.m. in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220 and issues an Order Imposing Fine/Certification of Lien. NO NOTICE OF THIS HEARING WAS PROVIDED TO DR. NEAUBAUER'S ATTORNEY, DAN TAYLOR OR TO DR. NEUBAUER prior to the date of the hearing. The Notice of Hearing was not delivered to Dr. Neubauer until February 21, 2006, some 3 weeks after the January 30, 2006 hearing. In the Notice of Hearing it states that any request for continuance may be made in writing to the Code Compliance Officer within 10 days. The Notice of Hearing states that each party has the right to call and examine witnesses. It states that any party represented by counsel must file a Notice of Appearance at least 5 days before the hearing date with the Town. It

states that if any person desires to appeal any decision regarding any matter considered at the hearing that the person will need a record of the proceedings and that any appeal must be made within 30 days. NO NOTICE OF THE JANUARY 30, 2006 HEARING WAS LEFT WITH THE MANAGER OR OTHER PERSON IN CHARGE AT THE BUILDING LOCATED AT 4001 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA AS REQUIRED BY SECTION 162.12 (1) (d) FLA. STAT. As a result of the Town providing no notice of the January 30, 2006 hearing to attorney Dan Taylor, and because no notice of the hearing was left with a manager or other person in charge at the commercial premises and because Dr. Neubauer did not receive the notice until February 21, 2006 the property owner did not attend the January 30, 2006 hearing and was therefore denied procedural due process of law.

3/9/06 – Department of Fire Rescue & Emergency Services issues a narrative that the fire sprinkler for permit no.: 05-05945 failed inspection because the system did not match the approved plans.

4/24/06 Caribbean Fire sends fax/memo to Vince Reilly stating that calls have been placed to the plumbing and fire department to obtain status on the drawings and the drawings still have not been reviewed by those officials. Caribbean Fire states that they will continue to request updates on the status of the drawings.

5/12/06 – Caribbean Fire & Associates, Inc. sends a memo to Dan Taylor, the attorney for Dr. Neubauer stating that the drawing review in both the fire and plumbing departments failed. The drawings will be available for pick up and Caribbean Fire & Associates will make the allotted corrections to the drawings.

8/06 – Caribbean Fire requests a change order to the contract and the contract price is revised by $1,982.00 to redesign the fire sprinkler system to meet requirements of Broward Fire Department and Broward Plumbing Department because the drawings originally done by Able Fire Sprinkler were insufficient.

9/5/06 – Caribbean submits a final draw stating that the work was 100% complete on September 6, 2006 in the amount of $5,082.00. The total revised contract is $31,082.00.

9/11/06 – **Department of Fire Rescue & Emergency Services performed a final inspection of the fire sprinkler system.** The inspection failed because the installation did not match the on-site plans; south stairwell had a sidewall installed that did not show on the plans; walls and partitions did not match the plans.

9/12/06 – Attorney Ken Hemmerle writes a letter on 9/12/06 to Sam Santiago of Caribbean Fire & Associates, Inc. stating that the inspection on 9/11/06 failed and that the items in the Broward Fire Department's narrative are to be corrected or addressed immediately so that another final inspection may be scheduled.

Contractor's material & test certificate for the underground piping was tested and conforms to the plans and the applicable code.

Contractor's material & test certificate for the aboveground piping was tested and conforms to the plans and the applicable code.

Backflow prevention assembly field tests reports are issued for 6" and ¾ bypass. Both tests reflect that check valves closed tight.

FINAL FIRE SPRINKLER INSPECTION IS APPROVED

11/17/06 – final fire sprinkler inspection is approved.

FACTORS RELEVANT TO THE APPLICATION FOR RELIEF

1. Nature and Gravity of the Violation.

   a. At no time did the Town or the County issue a red tag shutting down the operation of Ocean Medical Center's building for safety reasons.

2. Actions taken to Correct the Violations.

   a. As can be seen in the above chronology Dr. Neubauer and Ocean Medical went to great effort and expense over a period between September, 2003 and November, 2006 to come into compliance with the code.

3. Length of time between the ordered compliance date and the date the violations were brought into compliance.

   a. According to the order of the magistrate Dr. Neubauer had 120 days from January 18, 2005 to obtain the permits, complete the work and obtain all inspections. The ordered compliance date was May 18, 2005. The permit was obtained on July 1, 2005. The final inspection passed on November 17, 2006. During the period between May 18, 2005 and November 17, 2006, as the chronology above shows Dr. Neubauer and Ocean Medical worked diligently toward compliance. It is the position of Ocean Medical that compliance was achieved on the date the permit was issued which was July 1, 2005 based upon the language set forth in the notices of violation and based upon the position of the Town through its representative Kam Parker at the January 18, 2005 hearing as reflected in the minutes of that hearing. In the minutes of the hearing Code Compliance Officer Kam Parker was present on behalf of the Town. Officer Parker stated that since the notice the Respondent (Dr. Neubauer) has been diligently trying to accomplish **achieving the permits. Officer Parker requested an extension of 90 days to accomplish achieving the permits. Officer Parker requested an extension of 90 days to complete the permitting,** a $150 administrative fee and $100 fine for each violation. The magistrate clearly exceeded the scope of the notices of violation when he ordered that the work be completed and all inspections take place within 120 days from January 18, 2005. As the chronology shows Dr. Neubauer and Ocean Medical did not have control or had very little control over the length of time it took to complete the work and obtain all inspections. The building officials involved in plan review and inspection of the work in conjunction with the fire sprinkler contractors controlled the amount of time it took to complete the work and obtain all inspections not Dr. Neubauer and Ocean Medical. Dr. Neubauer and Ocean Medical as the chronology shows did everything in their power to expedite the completion of the work, including hiring attorneys, threatening legal action and filing a complaint with the Department of Business and Professional Regulation.

4. Actual costs expended to cure the violations. Dr. Neubauer and Ocean Medical spent **$45,920.75** between Able Fire Sprinkler and Caribbean Fire & Associates. Dr. Neubauer and Ocean Medical have also expended significant sums of money on attorneys in an effort to expedite the process.

5. Any other prior violations you committed on the subject property. There are three other cases involving the installation of an oxygen tank on the subject property. The violations were committed by Matheson TriGas, an oxygen supplier. Ocean Medical is in the process of resolving those cases. Any and all violations have been complied with.

6. Equitable Considerations. The Town through its representative, Brad Townsend, stated to Ken Hemmerle and Richard McCusker, attorneys for Ocean Medical in May/June, 2006 that the Town would only be seeking its administrative costs incurred in bringing the property owner into compliance with the code. Mr. Townsend estimated the administrative costs would be in the range of $4,000 - $6,000. Ocean Medical obtained the permit on July 1, 2005 (43 days after the ordered compliance date). Ocean Medical relied upon this representation/agreement of Mr. Townsend. The Town has not denied this because that is how liens were handled and resolved with property owners at the time the representation was made. In addition, Dan Taylor, an attorney with Tripp, Scott in Fort Lauderdale represented Dr. Neubauer in May, 2005. In early May, 2005, and prior to May 18, 2005, Mr. Taylor spoke with Mayor Parker of the Town. Mayor Parker stated to him that there was no need to go in front of the magistrate any further until the code violations were corrected and afterward present the reasons for any delays. Also, at about this time, Dan Taylor spoke with the Town's code compliance department in May, 2005 and was advised that the Town was only concerned with compliance and not with the monetary amount of the fines. This is consistent with what Brad Townsend had stated to Ocean Medical's attorneys, Ken Hemmerle and Richard McCusker in May/June, 2006. Ocean Medical justifiably relied upon the representations of the Town's representatives as well as the fact that the cited violations would be cured by the issuance of permits as it worked with the Town to resolve these matters. Ocean Medical did not have control over the length of time it took to complete the work and obtain all inspections. The building officials in plan review and who inspected the work as well as the fire sprinkler contractor controlled the amount of time it took to complete the work and obtain all inspections.

   On March 28, 2011 Attorney Ken Hemmerle obtained certified copies of the Town's files in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220. On the outside of the file in Case No.: 04-2220 there is a note, "schedule for April to Dismiss Case." Attorney Ken Hemmerle spoke with Jeff Bowman on March 29, 2011 who confirmed that the Town intends to dismiss Case No. 04-2220 (Obtain Electrical Permit For Installation of the Fire Sprinklers) and not seek the fines in this case which on the outside of the file indicate $101,400.00. This was confirmed in an e-mail to Mr. Bowman on March 29, 2011.

   a. **THE TOWN DID NOT PROVIDE NOTICE OF THE JANUARY 30, 2006 HEARING BEFORE SPECIAL MAGISTRATE AT WHICH THE PROPRIETY OF THE FINES AND LIENS WERE ADDRESSED**

   Ken Hemmerle's review of the Town's files in Case Nos.: 04-2216, 04-2217, 04-2218, 04-2219 and 04-2220 on March 28, 2011 also revealed and uncovered the following evidence. **The Orders imposing fines/certifying liens in all of these cases were**

entered as a direct result of the Town's failure to comply with the due process notice requirements of Section 162.12 Fla. Stat. The law firm of Tripp Scott by and through attorney, Dan Taylor, filed their notice of appearance in these cases on May 13, 2005 (which is contained in the Town's files).

Dan Taylor was working with the code compliance department as well as with the mayor and other representatives of the Town regarding resolution of these violations. **In spite of this the Town failed to give Tripp Scott notice of the January 30, 2006 hearing which resulted in no representation at the hearing and the imposition of fines/liens.** Dan Taylor confirmed to Ken Hemmerle that he did not receive notice of the January 30, 2006 hearing. In fact, it was Mr. Taylor's understanding during his conversation with Jeff Bowman on November 30, 2005 (which was confirmed in a letter from Mr. Taylor to Jeff Bowman on December 1, 2005) **that he agrees with Mr. Bowman to go before the special magistrate as soon as the matter is finished.**

The attempted delivery of notice to the property owner at the Neubauer residence provided no notice. A review of the Town's files shows that the Town sent a certified letter (Article No.: 7005-0390-0004-9823-6978) on January 5, 2006 to Dr. Neubauer. An attempt to deliver the letter was made on January 7, 2006. **The U.S. Postal Service did not make delivery of the certified mail until February 21, 2006, long after the January 30, 2006 hearing before the special magistrate was held.** (See the USPS track and confirm record in the Town's file) It is clear that the letter had not been claimed as of January 30, 2006, the date of the hearing. It is also clear that there is no evidence that Dr. Neubauer was notified or received notice of the January 30, 2006 hearing before the scheduled hearing. The evidence shows that the U.S. Postal Service made delivery of the notice on February 21, 2006.

The Notice of Hearing for the January 30, 2006 states that the hearing is being conducted pursuant to Chapter 6.5 of the Lauderdale-By-The-Sea Code of Ordinances and Chapter 162, Florida Statutes. This notice provides that each party will have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses on any relevant matter.

Section 162.12 (1) (a) Fla. Stat. required that notice of the hearing be served on attorney, Dan Taylor. The Town's records show that he was not provided with notice of the January 30, 2006 hearing. **Also, the due process requirements of Section 162.12 Fla. Stat. specifically provide that in addition to sending notice to the address listed in the tax collector's office, notice is required to be sent to any other address provided to local government by the owner.** Notice was not sent to the address of the attorney of record. Failure to send to the address provided is failure to comply with the due process requirements of Section 162.12 Fla. Stat. Little v. D'aloia, 759 So.2d 17, 20 (Fla. 2d DCA 2000).

b. NO NOTICE OF THE JANUARY 30, 2006 HEARING WAS LEFT WITH THE MANAGER OR OTHER PERSON IN CHARGE AT THE COMMERCIAL PREMISES LOCATED AT 4001 OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FLORIDA AS REQUIRED BY SECTION 162.12 (1) (d) FLA. STAT.

Pursuant to Section 162.12 (1) (d) Fla. Stat. in the case of commercial premises notice is required to be left with the manager or other person in charge. In this case no notice of the January 30, 2006 hearing was left with a manager or other person in charge at the

commercial premises located at 4001 Ocean Drive, Lauderdale-By-The-Sea, Florida. As a result of this further violation of the statutory notice requirements of the above statute by the Town the property owner never received notice of the January 30, 2006 hearing. In the case of Massey v. Charlotte County, 842 So. 2d 142 (Fla. 2d DCA 2003), just as in this case, the property owner did not receive notice of the January 30, 2006 hearing, at which the propriety of the fines and liens were addressed or an opportunity to be heard at the January 30, 2006 hearing. The Massey case mandates and requires that the property owner, must be provided with notice and an opportunity to be heard concerning any factual determination necessary to impose a fine or create a lien. This was clearly not done by the Town because attorney, Dan Taylor, was not noticed of the January 30, 2006 hearing and there was no notice to anyone until February 21, 2006, long after the hearing and the imposition of the fines as the evidence reveals in the Town's files. *Please see* the U.S. Postal Service Track and Confirm record in the Town's file which shows that Article No.: 7005-0390-0004-9823-6978 from the Town was not delivered until February 21, 2006, long after the January 30, 2006 hearing.

The lack of notice by the Town falls squarely within the case of Massey v. Charlotte County, 842 So. 2d 142 (Fla. 2d DCA 2003). Noncompliance with the statutory requirements of Chapter 162 has resulted in invalid liens on Ocean Medical Center's property. Personal Rep., Jacobson v. Atty. Ins., 685 So. 2d 19 (Fla. 3d DCA 1996). **A lien is not acquired unless the applicable notice requirements are strictly complied with.** Personal Rep., Jacobson v. Atty. Ins., 685 So.2d 19 (Fla. 3d DCA 1996).

In addition, a violation of the due process guarantee of notice and an opportunity to be heard renders a judgment void. Viets v. American Recruiters, Inc., 922 So. 2d 1090, 1095 (Fla. 4th DCA 2006).

In Cellular v. GH Cellular, 957 So.2d 662 (Fla. 3d DCA 2007), it was argued that because a party received notice of a default judgment after execution by the trial court, its only recourse was a motion for rehearing or a direct appeal. This argument was found to be without merit. A party against whom default has been entered is entitled to notice of an order setting the matter for trial, and must be afforded an opportunity to defend. Viets v. American Recruiters Enterprises, Inc., 922 So.2d 1090, 1095 (Fla. 4th DCA 2006). **It is irrelevant that the party had notice of the default final judgment after it was entered.** The relevant notice is notice and an opportunity to be heard before the entry of a default final judgment that awarded unliquidated damages. A violation of the due process guarantee of notice and an opportunity to be heard renders a judgment void Cellular; Viets, supra. **Rule 1.540 (b) (4) provides relief from void judgments at any time.** Cellular, supra at 666. **The actions of the Town in failing to provide Dr. Neubauer with the right to be heard on the issues at the January 30, 2006 hearing by ignoring statutory requirements and not noticing counsel of record renders the orders and liens void.**

CARIBBEAN FIRE & ASSOC. INC.
3858 SW 30th Ave, Suite 109
Hollywood, FL 33312
Toll Free: 1 800 624 2281
T: 954.581.9393
F: 954.581.2896
www.CaribbeanFire.com

April 19, 2011

Tex Janulis
Ocean Medical Center, L.L.C.
4001 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case No.: 04-2220 (Electrical Permit Required for Installation of fire sprinklers)
Permit No.: 05-05945

Dear Tex:

As you know we pulled the permit for the fire sprinklers at the above commercial building for the first floor on July 1, 2005. We did not pull an electrical permit for the installation of the fire sprinkler system because it was not required. Our work has passed inspection and approved by Broward County. You informed me that the Town is claiming $101,400 in fines for the above case. You further informed me that the Town of Lauderdale-By-The-Sea through its Code Compliance Officer, Jeff Bowman, stated that it was the Town's intent to dismiss the above case because an electrical permit was not required for the installation of the fire sprinkler system. I would agree with the Town in this regard because it is not necessary for me to pull an electrical permit on any of my fire sprinkler projects to be finaled.

Very truly yours,

Sam Santiago
President

SS

24 6/4 2/4 120
31
30 No elec permit for Sprinkler System
31 under interior remodel - 09-01817 ?
116 not required

$100 Admin / On June 4, 2005 $100 per day

~~Dan memo elec perm not Req.~~
~~agenda to dismiss - Dec 09~~

Fines began 6-5-2005 at 100$ per day
and ran till 3-14-2008
1013 days x 100$ = $101,300.00
Plus $100 admin fee = 101,400.00 Total.

Schedule for
April to
Dismiss
Case.

12-16

~~Final Electrical~~
~~Failed 2-27-06~~

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED by my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

28th day of March, 20 11

[illegible] Town clerk

Subsection D

Costs encountered by Ocean Medical Center - Sprinkler Systems	
Vendor	Approximate Amount Paid
Able Fire Sprinkler	$19,500.00
Caribbean Fire	$26,000.00
Attorney's Fees	$15,000.00
Broward County Building Department	$2,800.00
Total Paid	$63,300.00

Subsection F

Ocean Medical Center, L.L.C.
4001 North Ocean Drive
Lauderdale-By-The-Sea, FL 33308
954-771-4000

May 11, 2011

Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Town of Lauderdale-By-The-Sea v. Richard Neubauer, et al
Case No.: 04-2220 (Fire Sprinklers)

Dear Town of Lauderdale-By-The-Sea:

As you are aware, the Town of Lauderdale-By-The-Sea (Town) has informed Ocean Medical Center, LLC, a/k/a Neubauer Hyperbaric Neurologic Center, Inc. (OMC), that there are accumulated fines in the above referenced case. According to numerous conversations with representatives of the Town whom assured us that the Town was only interested in collecting administrative fees in the above referenced case, OMC is offering $2,500.00 to settle this case based upon the information provided in our second Application for Relief from Code Enforcement Fines or Liens and an explanatory letter from attorney Kenneth V. Hemmerle, II, Esq., dated September 2, 2010.

We would appreciate your prompt consideration to resolve this matter as it has been continuing on for years and has caused an extreme financial burden on OMC.

Sincerely,

Winnie Neubauer

Winnie Neubauer
Owner

CONCLUSIONS OF LAW

Accordingly, based on the testimony and evidence referenced above, the PETITIONER Town met its burden of providing by substantial competent evidence, that the alleged violation(s) does in fact exist on the subject property.

ORDER

THEREFORE, BASED UPON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UNDERSIGNED SPECIAL MASTER FINDS THE RESPONDENT GUILTY OF VIOLATING: CODE SECTION 24-5.148 (1).

IN DETERMINING THE FINE AMOUNT TO BE IMPOSED, CONSIDERATION WAS GIVEN TO: (1) THE GRAVITY OF THE VIOLATION(S), (2) ANY ACTIONS TAKEN BY THE RESPONDENT(S) TO CORRECT THE VIOLATION(S); AND (3) ANY PREVIOUS VIOLATIONS COMMITTED BY THE RESPONDENT(S).

FINALLY, THE SPECIAL MASTER FINDS THAT THE RESPONDENT BE GIVEN ONE HUNDRED AND TWENTY (120) DAYS FROM THE DATE OF THIS ORDER TO CORRECT SUCH VIOLATION BY PERMITING, COMPLETING THE WORK AND OBTAINING ALL INSPECTIONS. FAILURE TO COMPLY WITHIN THE SPECIFIED TIME PERIOD SHALL SUBJECT THE RESPONDENT TO A FINE OF ONE HUNDRED AND NO/100 DOLLARS ($100.00) PER DAY. THE PETITIONER HAS REQUESTED AN ADMINISTRATIVE FEE AGAINST THE RESPONDENT IN THE AMOUNT OF ONE HUNDRED FIFTY DOLLARS AND NO/100 ($150.00). THE SPECIAL MASTER GRANTS THE PETITIONER'S REQUEST OF THE ONE HUNDRED FIFTY AND NO/100 DOLLARS ($150.00) ADMINISTRATIVE FEE AGAINST THE RESPONDENT.

Done and Ordered this 18th day of January, 2005 at Lauderdale By The Sea, Florida.

Ian M. Berkowitz, Special Master

ATTEST:

Alina Medina, Town Clerk for the Special Master

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

16th day of Feb, 20 06

Alina Medina Town clerk

FILED

FEB - 4 2006

BY: CR for LBTS

RECEIVED
FEB 04 2005
BY: C. Lupetin for LBTS

TOWN OF LAUDERDALE BY THE SEA
CODE COMPLIANCE SPECIAL MASTER

CASE NUMBER: 04-2220

TOWN OF LAUDERDALE BY THE SEA,

Petitioner

vs.

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 SE 19th Avenue
Lauderdale By The Sea, FL 33062,

Respondent

FINAL ORDER

HEARING DATE: 18th DAY OF JANUARY, 2005.

VIOLATION(S): CODE SECTION 24-5.148 (1)

An administrative hearing was held before the Special Master on January 18, 2005. Set out below are the findings of fact, conclusions of law and final order for the subject hearing.

FINDINGS OF FACT

The record indicates that the RESPONDENT owns certain real property located at 4001 Ocean Drive, Lauderdale By The Sea, Florida 33308 and more particularly described as follows:

Tax Folio Number (Property I.D.): 9318-04-075

At the hearing held on this matter on January 18, 2005 the PETITIONER Town presented testimony by Code Enforcement Officer Kami Parker, concerning her personal knowledge of the existence of the subject violation(s), and entered into record evidence of notice required under Chapter 162 Florida Statutes. Respondent, RICHARD A. NEUBAUER REVOCABLE TRUST was not present at the hearing.

given to: (1) the gravity of the violation(s), (2) any actions taken by the Respondent(s) to correct the violation(s); and (3) any previous violation(s) committed by the Respondent(s).

3. That this Certification, together with the original Final Order, be recorded in the Public Records of the Office of the Clerk of the Circuit Court in and for Broward County, Florida. Pursuant to Section 162.09, Florida Statutes, these documents, once recorded, shall constitute a lien against the land on which the violation(s) exist, and upon any other real or personal property owned by Respondent(s).

4. If any person desires to appeal, pursuant to Section 162.11, Florida Statutes, such person will need a record of the proceedings which includes the testimony and evidence upon which the appeal is based.

Certification of Lien ordered at Lauderdale-By-The-Sea this 30th day of January, 2006.

ATTEST:

BY: _____
Alina Medina, Town Clerk

Special Magistrate of the Town of Lauderdale-By-The-Sea

BY: _____
Ian M. Berkowitz, Special Magistrate

State of Florida
County of Broward

On this, the 14th day of February, 2006, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by Alina Medina, Town Clerk, and Ian M. Berkowitz, Special Magistrate of the Town of Lauderdale-By-The-Sea, Florida.

WITNESS my Hand and Official Seal

JUNE A. WHITE
Notary Public - State of Florida
My Commission Expires Aug 15, 2008
Commission # DD119065
Bonded By National Notary Assn.

_____
Notary Public, State of Florida

JUNE A. WHITE
Printed, typed or stamped name of
Notary Public exactly as Commissioned.

☑ Personally known to me

Copies furnished to:
Richard Neubauer
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, Florida 33062

CFN # 105798161, OR BK 41480 Page 1912, Page 1 of 4, Recorded 02/17/2006 at 10:31 AM. Broward County Commission, Deputy Clerk 2030

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Please Return Recorded Document to:
Code Enforcement Division
Development Services Department
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

BEFORE THE SPECIAL MAGISTRATE
TOWN OF LAUDERDALE-BY-THE-SEA

ORDER IMPOSING FINE/CERTIFICATION OF LIEN

TOWN OF LAUDERDALE-BY-THE-SEA,

Petitioner

v.

Case No. 04-2220

RICHARD NEUBAUER
RICHARD A. NEUBAUER REVOCABLE TRUST
1584 S.E. 19th Avenue
Lauderdale-By-The-Sea, FL 33062,

Respondent(s).
_____/

The above referenced case was heard on January 18, 2005. The Respondents were found in violation of the Town Code of Ordinances and given until May 18, 2005 to comply the violation. An Affidavit of Non-Compliance was issued on February 3, 2006.

The property located at 4001 Ocean Drive, Lauderdale-By-The-Sea, Florida, corresponding to Folio # 9318-04-0750, is still in violation of the Town's Code of Ordinances.

Therefore, pursuant to Section 162.09, Florida Statutes, the Special Magistrate certifies as follows:

1. The Order of January 18, 2005 required the Respondents to comply the violation by May 18, 2005, and if compliance was not met within the specified time frame, a fine of One Hundred and 00/100 Dollars ($100.00) per day, would commence and continue to accrue for each day thereafter that the violation exists.

2. The Respondent(s) violated the Order of January 18, 2005 and the Respondent(s) continue to violate the Order; therefore, the Special Magistrate imposes and certifies a fine in the amount of One Hundred and 00/100 ($100.00) per day, plus administrative costs, beginning May 18, 2005, which shall continue to accrue until the Respondents come into compliance or until a judgment is entered based upon this certification of fine. In determining the fine amount to be imposed, consideration was

FILE
FEB 13 2006
BY: CJ

4

Kenneth V. Hemmerle, II
Professional Association
Attorney at Law

SUITE E
1322 NORTHEAST FOURTH AVENUE
Fort Lauderdale, Florida 33304

TELEPHONE (954) 768-9116
TELECOPIER (954) 768-9117

E-mail: KVHIILAW@aol.com
www.hemmerlelaw.com

September 2, 2010

Town of Lauderdale- By- The- Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Re: Case Nos: Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2216 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2217 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2218 (Oxygen Tank)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2219 (Fire Sprinklers)
Town of Lauderdale-By-The-Sea v. Richard Neubauer, Case No: 04-2220 (Fire Sprinklers)

Dear Sir or Madam:

This office represents Ocean Medical Center, L.L.C., ("Ocean") the owner of the property located at 4001 North Ocean Drive, Lauderdale-By-The-Sea, Florida 33308 ("the property"). This letter is an attachment to the Application for Relief from certain liens arising out of the above case numbers which were recorded by the Town of Lauderdale-By-The-Sea ("the Town") against Ocean's property. This letter will serve as an explanation as to why relief from the recorded liens should be granted to Ocean.

Ocean received title to the property on December 20, 2005 from Richard A. Neubauer and Winnie I. Neubauer, individually and as Trustees of the Richard A. Neubauer Revocable Trust Agreement dated September 8, 1982, as amended and restated. A copy of the Trustee's Deed is attached hereto.

On Ocean's property is a 1,500 gallon oxygen tank which serviced Ocean Hyperbaric Neurologic Center, Inc. ("Ocean Hyperbaric"), a tenant in Ocean's building.

Ocean Hyperbaric had a contract with Matheson TriGas, Inc. ("TriGas") to supply Ocean Hyperbaric with oxygen which is utilized in its business. The tank and all of the mechanical equipment and apparatus attached to the tank is and was owned by TriGas. In June, 2004 as part of its contractual relationship with Ocean Hyperbaric, TriGas determined that it was necessary to remove an existing 1,500 gallon oxygen tank that it had been supplying oxygen to from Ocean Medical's property and replace it with another 1,500 gallon oxygen tank. In June, 2004, TriGas, prior to removing the existing 1,500 gallon oxygen tank was told by a representative of Ocean Medical that a building permit had to be obtained from the Town as part of their replacing the oxygen tank.

During TriGas' removal of the oxygen tank some oxygen was released into the atmosphere and a near-by property owner contacted the Lauderdale-By-The-Sea-Fire-Department ("Fire Department"). The Fire

Department investigated the incident. As a result of the Fire Department's investigation Ocean Medical was cited with code violations (Case Nos.: 04-2216, 04-2217 and 04-2218) for TriGas' failure to first obtain a building permit before installing the 1,500 gallon oxygen tank which they owned. Neither Ocean nor Ocean Hyperbaric own the oxygen tank.

Case Nos.: 04-2219 and 04-2220 involve the failure to obtain a permit for plumbing and electrical in connection with fire sprinklers in the building where the property is located. Ocean had hired a company by the name of Able Fire Sprinkler, Inc. to install the fire sprinklers. Ocean was told that the job had been finaled and approved by the Town. Ocean learned later that the work had not been finaled and approved by the Town, and that Able Fire Sprinkler went of business. Ocean then hired Carribbean Fire and Associates to take over and finish the job which they did.

After receiving the code violations in Case Nos.: 04-2216, 04-2217 and 04-2218 Richard Neubauer began a process of hiring construction professionals and design professionals to correct the code violations and pull the necessary permit which was not successful.

In or about April, 2006 Ocean Medical contacted the undersigned to help them with obtaining a building permit. Shortly after April, 2006 the undersigned contacted Mr.Bradford D. Townsend, Planning and Zoning Administrator with Lauderdale-By-The-Sea. The undersigned and another attorney, Richard McCusker, Jr. met with Mr. Townsend. The undersigned also spoke with Mr. Townsend by phone. As part of the meeting and discussions with Mr. Townsend, Mr. Townsend advised that the Town was only interested in bringing Ocean into compliance and that the Town was not interested in collecting enormous fines or foreclosing on Ocean's property. Mr. Townsend did advise the undersigned that the Town would be looking to recover their costs associated with bringing Ocean into compliance which would amount to approximately $4,000 - $6,000. With that understanding Mr. Townsend requested that Ocean hire an engineer and provide a soil test of the soil underneath the concrete slab upon which the tank sat. Ocean hired an engineer who did the soil test and this was provided to the Town and Mr. Townsend.

Next, Mr. Townsend requested that Ocean hire an engineer to test the concrete of the slab and the steel within the slab to make sure that the slab was strong enough to hold the weight of the tank. Ocean hired an engineer who performed these tests and the engineer's report was provided to Mr. Townsend and the Town.

Next, Mr. Townsend advised that the second story of the enclosure around the tank had to be constructed of reinforced concrete instead of the structure that was in place at the time which was wood with metal lath and stucco. The first story around the tank was concrete.

Next, Mr. Townsend advised the undersigned that Ocean could go ahead and commence with their plans and application for a building permit for the tank. Ocean hired engineers to prepare the plans. Ocean also hired a general contractor for the construction, an electrical contractor and a plumbing contractor to pull the permits required by the Town.

In December, 2006 Ocean submitted its plans and engineering tests to the Town along with applications for building permits for the June, 2004 change out of the oxygen tank by TriGas.

Afterwards the Town issued Permit 06-10749. Since the time that the permit was issued, Ocean and its contactors and design professionals have had numerous meetings with the Town's building

inspectors and officials based upon many comments to the many plan revisions by the various plan reviewers. The Town in essence has micromanaged the entire project from inception.

Ocean is in compliance and based upon their diligence, hard work and continuous efforts to come into compliance should be given relief from the Town's liens. Based upon the representations of Mr. Townsend and the discussions which were had with him, Ocean should be given relief from the fines and should only be required to pay the Town's administrative costs associated with bringing Ocean into compliance which Mr. Townsend estimated to be between $4,000 and $6,000. Ocean should also be given relief from the liens because TriGas was told that they were required to first obtain a building permit and installed the tank which they own on Ocean's property without first obtaining a building permit. Ocean should also be given relief from the liens because Ocean has expended in excess of $200,000.00 in costs to come into compliance. Ocean should also be given relief from the liens in Case Nos.: 04-2219 and 04-2220 because Ocean had hired a contractor to install the fire sprinklers in the building, was subsequently told that the job had been finaled and approved by the Town, the company then went of business and Ocean was required to hire another fire sprinkler contractor to take over and finish the work.

Sincerely,

Kenneth V. Hemmerle, II

KVH,II
Enclosure

Exhibit 6

Costs encountered by Ocean Medical Center - Oxygen Tank	
Vendor	Approximate Amount Paid
Nutting Engineering	$1,200.00
JT Electric	$10,500.00
Altron Electric	$9,500.00
Bob Frank Electric	$32,626.00
Dixie Plumbing	$42,580.00
Original Architect	$3,200.00
Navarius Architect / Engineer	$11,250.00
Architect Fitz Harris	$2,800.00
Architect Ken Carlson	$2,200.00
Med Gas Testing	$1,350.00
Life Safety Engineer	$2,000.00
A & A Construction	$78,650.00
Attorney Dan Taylor/Tripp Scott	$17,500.00
Attorney Armpreister	$8,900.00
Attorney Hemmerle	$190,000.00
Broward County Building Department	$8,500.00
Total Paid	$422,756.00

Costs encountered by Ocean Medical Center - Sprinkler Systems	
Vendor	Approximate Amount Paid
Able Fire Sprinkler	$19,500.00
Caribbean Fire	$26,000.00
Attorney's Fees	$15,000.00
Broward County Building Department	$2,800.00
Total Paid	$63,300.00