

**PHA BOARD SPECIAL MEETING
JULY 3, 2008
MINUTES**

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07/21/08

MEMBERS PRESENT

Julio Bagué
Jaime Morgan-Stubbe
Rita Molinelli
Daniel Vasse
Félix Santoni
Servando Díaz
Alberto Rivera
Eric Grafals

MEMBERS ABSENT/EXCUSED

Raúl Rivera
Victor Nieto
Edd Siler
Walter Fournier
Luis Rodríguez

I. CALL TO ORDER

Mr. Julio Bagué, President, called the meeting to order at 9:00 a.m. Mr. Bagué welcomed the board members and explained the purpose of the meeting. According to Mr. Bagué the meeting was called at the request of Mr. Jaime Morgan to address a topic related to a PDMPI debt with PHA pertaining to the PDMPI Maintenance Building.

II. SUMMARY OF DISCUSSIONS

Mr. Bagué provided a quick background of the issue indicating that it pertained to a collection case dating back to year 2002. The case was seen at the Superior Court which ruled in favor of PHA after considering the case on its merits. The court's decision became firm and final once the term to appeal the decision expired. Mr. Bagué added that PDMPI appeal process was not based on the merits of the case but upon the argument that PDMPI never received the courts decision documents on time and thus it had not appealed within the time allowed under the law. The Superior Court as well as the Appellate Court and the Supreme Court considered PDMPI argument but ruled against. Having a court determination that is final and obligatory, PHA attorneys filed an execution order to collect the money owed to PHA (approximately \$109,000).

Mr. Jaime Morgan thanked the PHA Board for the opportunity to discuss the issue and to consider his position on this matter. He explained that, for some reason, the Superior Court decision allegedly was not received by PDMPI lawyers until six months later when

a collections letter from PHA lawyers was received by PDMPI attorneys handling the case. At that time the appeal process was initiated, however, denied as the appeal terms had already expired. Mr. Morgan pointed out that he was bringing up this matter before the PHA Board appealing to its sense of fairness as reasonable persons and business-minded individuals. He is not blaming anyone for the outcome of the decision but is asking the PHA Board to reconsider this matter.

According to Mr. Morgan, under the PHA Restrictive Covenants, from the very beginning, the Palmas Master Developer has the right to withdraw undeveloped land from the Restrictive Covenants. Accordingly, in 1996 PDMPI withdrew all undeveloped lands part of the main PDMPI parcel no. 10151 through registered Deed no. 18 before Notary José Ricardo Torres Morales from the PHA Restrictive Covenants. Mr. Morgan added, that a dispute subsequently arised on whether or not PDMPI should pay PHA assessment for a Maintenance Building built in 1999 in what is known as the Utility Parcel to support Golf Course maintenance activities.

Mr. Morgan then distributed some photos of the area taken in 1997 which shows that the building was not there at that time and what was there were some shacks to support golf course maintenance activities. These arguments were not raised by PDMPI attorneys during the case and it was not after the case had been concluded that he (Mr. Morgan) realized that the parcel was not encumbered by the PHA Covenants and should have not paid any assessments. This point was brought up at a PHA Executive Committee meeting but he was told that an operation existed at that place for many years prior to 1996 and that the land where the building is located is part of the Utility Parcel that contains PDMU operations and the PDMPI Executive Offices complex.

According to Mr. Morgan, the arguments used in the case centered in that the building should be exempt from PHA assessments because it was a building used by the Palmas Country Club for the benefit of the community. These arguments assumed that the parcel where the building is located was governed by the PHA Covenants. Unfortunately, according to Mr. Morgan, the arguments that the building was not encumbered by the PHA Covenants was not used could not be raised during the appeal process because the term to appeal the case on its merits had expired.

Mr. Morgan understands that, regardless of the Court decision, he should not pay the assessments because the parcel is outside of the PHA Covenants. He believes that the enforcement of the Court decision is an unjust enrichment by PHA. He recognizes that human errors have been committed in the handling of this matter and PDMPI would have not allowed such a debt to accumulate. He therefore requests that the Board uses its good judgment and sense of fairness to understand PDMPI's position and condone the court decision.

Mr. Julio Bagué pointed out that he recalls that prior to 1997 in the area where the maintenance building is located, there was a PDMPI maintenance shop, a golf course maintenance operation, a Carts Pro auto and golf car service and repair shop and a gasoline vending operation among others. Thus this was a developed parcel that could

not be taken out of the Covenants. Mr. Bagué added that PDMPI debt is recorded in PHA books as an account receivable and PHA has a court decision and an execution order to collect the monies owed. He further added that the PHA Board fiduciary responsibilities as well as the limitations contained in the PHA statutes do not allow the Board to condone such a debt.

Mr. Jaime Morgan reminded the Board that PDMPI continues to pay PHA assessments for land that is outside of the PHA Covenants. This is being done to help PHA economically. Should PHA insist in collecting the debt for the Maintenance Building PDMPI will have to consider whether it should continue to pay assessments for land not covered by the PHA Covenants. Also, PDMPI will have to look for ways to mitigate the impact of enforcing the court decision.

Mr. Bagué suggested that if PDMPI lawyers mishandled the case or the appeal process then perhaps PDMPI should focus on recovering damages from the lawyer's insurance company.

Following a brief break where the "Class B" members of the PHA Board of Directors convened for further analysis of the issue, the Board reconvened to announce its decision. Mr. Julio Bagué informed Mr. Morgan that after due consideration of all the facts surrounding this issue as well as his presentation, the PHA Board could not condone the debt owed on the PDMPI maintenance building. He pointed out that the Board has acted in good faith and expects that both institutions will continue to work within the excellent spirit of cooperation that has characterized PHA/PDMPI relations to date. Mr. Bagué added that PHA can offer a payment plan to make it easier for PDMPI to pay for the debt.

Mr. Jaime Morgan indicated that he understands the Board position and recognizes the outcome of this case is something that must be accepted as both sides elected to pursue a final decision before the court of law. He acknowledged that both parties acted in good faith and thanked the PHA Board for the payment plan option. He will work with PHA administration to reach an accord on such a payment plan.

III. ADJOURN

The PHA Board adjourned at 10:15 am. The next Board meeting originally programmed for July 11, 2007 was postponed for July 14, 2008 at 8:30 a.m.