

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Code Enforcement Lien Reduction Request - Robert Dance – 3775 N US Hwy 17-92 Sanford, Seminole County, Parcel ID # 22-20-30-300-010A-0000

**DEPARTMENT:** Planning & Development **DIVISION:** Planning / Code Enforcement

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Deborah Leigh Ph: 407-333-8208

<b>Agenda Date</b> <u>08-12-03</u> <b>Regular</b> <input checked="" type="checkbox"/> <b>Consent</b> <input type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/>
<b>Public Hearing – 1:30</b> <input type="checkbox"/> <b>Public Hearing – 7:00</b> <input type="checkbox"/>

**MOTION/RECOMMENDATION:**

(A) Approve a reduction of the Code Enforcement Board lien to \$3,000 on Parcel 10A, Sec. 22 Twp. 20 Rge. 30 Seminole County – Robert Dance owner – Case # 98-09-CEB.

(B) Approve a reduction to the Code Enforcement Board lien to \$11,750 on Parcel 10A, Sec. 22 Twp. 20 Rge. 30 Seminole County – Robert Dance owner – Case # 98-09-CEB.

(C) Approve a reduction to the Code Enforcement Board lien on Parcel 10A, Sec. 22 Twp. 20 Rge. 30 Seminole County – Robert Dance owner – Case # 98-09-CEB.

(D) Deny the request to waive or reduce the Code Enforcement Board lien on Parcel 10A, Sec. 22 Twp. 20 Rge. 30 Seminole County – Robert Dance owner – Case # 98-09-CEB.

District 5 – McLain

(Deborah Leigh-Code Enforcement)

**BACKGROUND:**

On January 12, May 1, and June 21, 1990, the Code Enforcement Office investigated violations that existed at 3775 N US Hwy 17-92, Sanford, Bob Dance Dodge. Violations of the display of banners, pennants, streamers, balloons or similar displays were identified.

Final Notice of Violation was issued to the property owner on June 21, 1990 and compliance was achieved on July 17, 1990. A re-inspection on July 20, 1990, revealed the violation had reoccurred. Therefore, on July 26, 1990, the Code Enforcement Board held a hearing. Mr. Dance appeared before the Code Enforcement Board, alleged no personal knowledge of the code and stated he would make every attempt to comply with the code in the future. The Code Enforcement Board dismissed the case.

<b>Reviewed by:</b> Co Atty: <u>KC</u> DFS: _____ Other: <u>MW</u> DCM: _____ CM: <u>JLB</u> File No: <u>RPDP04</u>
---

On April 25, 1991, case number 91-25-CEB was brought before the Code Enforcement Board for violations of the sign regulations for the illegal display of balloons. The Code Enforcement Board entered into an order of Findings of Facts, Conclusion of Law and Order finding Robert Dance in violation and a fine of \$250.00 per day would be imposed if the violation occurs or is repeated.

On April 23, 1992, a request for hearing was filed by the code inspector concerning violations of the sign regulations. Gary Siegel, legal counsel for Robert Dance, appeared before the Code Enforcement Board and requested a continuance based on the fact that he had not had the opportunity to speak with the County concerning the violations. The Code Enforcement Board granted a 30 day continuance.

On May 28, 1992, the Code Enforcement Board received a continuance request from Gary Siegel based on the fact he was appearing in Federal Court and could not attend. The Code Enforcement Board granted a 30 day continuance.

On June 25, 1992, the Code Enforcement Board heard case number 92-17-CEB, for violations of banners, pennants, flags, balloons, streamers and similar displays on the property, along with other violations of the sign regulations. The Code Enforcement Board issued an order of Findings of Fact, Conclusions of Law and Order, requiring the property to be brought into compliance or a fine of \$100.00 per day would be imposed for each day the violation continued or was repeated after June 26, 1992. Al Fishalow, representing Bob Dance, testified at this hearing, that they would stay in compliance with all rules and regulations in the future.

On September 24, 1992, the Code Enforcement Board addressed the issue of the fine, which had accumulated to \$1,400.00 for 14 days of non-compliance. Al Fishalow attended, representing Robert Dance. The board unanimously passed a motion to reduce the fine to \$700.00.

In October of 1992, it was reported to the Code Enforcement Board that the fines accrued on case number 91-25-CEB in the amount of \$500.00 and that on case number 92-17-CEB the reduced amount of \$700.00 had been paid.

On January 22, 1998, the Code Enforcement Board heard case number 98-09-CEB, Robert Dance, for the violation of banners, pennants, streamers, balloons or similar displays. The Code Enforcement Board issued an order of Findings of Facts, Conclusions of Law and Order, requiring the property to be brought into compliance or a fine of \$250.00 per day would be imposed for each day the violation continued or was repeated after January 29, 1998. No respondent was present at this hearing.

On November 19, 1998, a repeat case was heard by the Code Enforcement Board to consider finding non-compliance for 31 days at \$250.00 a day. The board unanimously voted to continue this case until the January 28, 1999 meeting. Gary Seigel, Counsel for Robert Dance was present at this hearing.

On January 28, 1999, the Code Enforcement Board addressed the issue of the fine which accumulated for non-compliance in the amount of \$23,750.00. Gary Seigel, Counsel for Robert Dance discussed the possibility of settling for \$100.00 a day for the period of time of non-compliance. Lorrain Bohn, Office Manager for Bob Dance Dodge also testified to the Board concerning the violations. A motion to reduce the fine to 10% died for lack of a second and after further discussion, the Board unanimously voted to take no action at this time.

On March 24, 1999, at the request of the Respondent and the County's Attorney's Office, the Code Enforcement Board addressed the fine again (copies of minutes are attached). After lengthy discussion concerning the possibility of a \$3,000.00 settlement, appeals and discussions with the County, the Code Enforcement Board took no action. There was no respondent present at this hearing.

Only April 27, 1999, the County Commission authorized the County Attorney to defend the lawsuit and reach an agreement.

On July 22, 1999, the Code Enforcement Board entered into a Joint Stipulation findings of Fact, Conclusions of Law and Order by request of the County Manager. This Order dismissed the Code Enforcement Board's fine. Further, by execution of the Order, the Respondent, Robert Dance agreed that he would no longer display signage prohibited by the Seminole County Land Development Code.

On June 14, 2001, a repeat violation was filed on case number 98-09-CEB, for the display of banners on the property even though Mr. Dance had previously agreed that he would no longer display signage prohibited by Seminole County Code. On July 26, 2001, the Code Enforcement Board heard the case on the repeat violation. The Board issued an order, finding Robert Dance in violation of the order issued January 22, 1998 for a period of 82 days at \$250.00 a day for a total amount of \$20,500.00. The Board further ordered the property to come into compliance by July 30, 2001, or the fine will be increased to \$500.00 per day.

On July 30, 2001 the Code Inspector inspected the property and filed an affidavit of compliance, making the total amount of the fine \$21,250.00. An Order, Finding Non-Compliance and Imposing Fine/Lien was issued and recorded.

On August 27, 2001, Robert Dance and Bob Dance, Inc. petitioned the Circuit Court to stay the lien. On February 19, 2002, the Circuit Court denied the Dance petition. On April 11, 2002, the Court denied the Dance motion for a rehearing of their petition.

On June 16, 2003, the Code Enforcement Office received a copy of a letter addressed to Bob McMillan, County Attorney, from Gary Siegel asking the Code Enforcement Board to once again consider reducing the fine to \$3,000.00. The item was placed on the Code Enforcement Board's Agenda for July 31, 2003. Realizing, however, that there was a recorded lien, it was removed from the Code Enforcement Board's agenda and scheduled for consideration by the Board of County Commissioners.

In summary: In 1998/1999 there was a fine in the amount of \$23,750.00 resulting from 95 days of non-compliance, which the Code Enforcement Board dismissed. In addition, in 2001 there was a fine in the amount of \$21,250.00 resulting from 82 days of non-compliance

that the Code Enforcement Board has issued an order imposing a lien, which is the lien being considered in this request.

The Board's guidelines for reducing liens adopted February 9, 1999 are identified below:

1. If an individual has acquired a property in which the lien was recorded and the individual bought the property with this knowledge, a waiver or reduction in lien should not be granted. In such cases the lien should have been considered in reaching a purchase price.
2. If a lien is not considered when a title insurance policy is issued, a reduction of the lien to provide relief to a title insurer should not be granted. To do so would place the County in the position indemnifying an insurance company against its losses, which are reflected in premium charges.
3. If a lien has previously been reduced, and another request is received for a lien reduction, whether from the original property owner or a new owner, a reduction or waiver should not be granted. If the BCC Grants relief to a violator its action should be final and conclusive.
4. When considering a request and in developing a recommendation to the BCC, staff should evaluate the amount of the lien compared to the value of the property and the actions the violator did or did not take in attempting to resolve the code violation.
5. When liens are satisfied as a result of either full payment or reduced/eliminated payment as directed by the BCC, the lien satisfaction instrument will be provided to the property owner who shall be responsible for recording the instrument in the land records.

**STAFF RECOMMENDATION:**

Based on the facts submitted, in accordance with the above-mentioned established guidelines (#3), staff recommends denying the request for a reduction of the lien.

Should the Board deviate from the existing guidelines and reduce the lien, staff recommends that the amount not be reduced to less than \$11,750 based on the amount of the fine that accrued from a repeat violation (June 14, 2001 to July 30, 2001) which occurred after Mr. Dance agreed not to violate the code again (\$250 X 47 days = \$11,750).

Attachments: Excerpt from the Code Enforcement Board Hearing of March 24, 1999, Board of County Commission Minutes of April 27, 1999. Copy of Joint Stipulation Findings of Fact, Conclusion of Law and Order

Copy of minutes of March 24, 1999  
(Case # 98-09-CEB – Robert Dance/Bob Dance Dodge)

CODE ENFORCEMENT BOARD HEARING

=====

ADD-ON

Case No 98-09-CEB  
Robert Dance  
Bob Dance Dodge  
Inspector: Deborah Leigh

The Respondent and the County  
request the Board to consider  
resolution of the outstanding fine.

Violation charged: Inflatable advertising displays, banners, pennants, flags, balloons or similar displays located at 3775 Highway 17-92 N. (District 2)

Mr Mantzaris stated that the Respondent did not receive the certified mailing notice for this meeting. He wanted to point out this matter was put back on your agenda as an add-on at his request. As you will recall, back in January attorney Gary Seigel was here representing Bob Dance trying to address the fine that had accrued due to a repeat or recurring violation out at Bob Dance Dodge. Subsequent to that meeting Mr Seigel approached the County Commission. The County Commissioners got involved and asked for a status as to the matter, in turn involving the County Attorney Mr McMillan. Mr McMillan indicated that the County was willing as a party for you to agree to a resolution of the fine that had accrued to a point of about \$24,000.00 to a resolution of that fine by a payment of \$3,000.00. With the agreement between the two parties he was to bring back before the agreed upon resolution of the fine amount where Bob Dance would pay \$3,000.00 with the understanding that they would not violate the code again. After this discussion Mr Bob Dance and Bob Seigel saw fit to file an appellate complaint in Circuit Court here in Seminole County. That changed the ground work a little bit but did not prevent us from bringing this forward to you to consider a settlement as a resolution. On Monday of this week he received notification from Mr Seigel that his client was not willing to pay the \$3,000.00. I have provided you a copy of the letter I sent to him on Monday where he had asked me to change the deal with Mr McMillan in the County Attorney's office. Mr McMillan & I spoke this morning. They are not willing to agree to anything other than the reduction of the fine to \$3,000.00 under the stipulation that the appellate proceeding that had been file is dismissed. What we have before you right now is that the Board can do essentially one or two things. As you recall at the last meeting in January no action was taken, there was no formal request made. The appeal that has been filed and he quite frankly does not believe that Bob Dance has

any grounds to appeal. You can choose once again to do no action, or it could agree that the settlement they talked about is acceptable to this Board and allow us to go back and try to recreate it with Mr Seigel and his people.

Mr Mantzaris said that Mr Seigel has advised that his people intend to lobby the commission to change the ordinance, and until the ordinance has changed his client does not intend to violate it again.

If the Board is not going to take any action, give some indication about whether a reduction to \$3,000.00 and a dismissal of the pending appeal would be something this Board would be willing to consider. If not, this would go back to the hands of the County Attorney and Mr Seigel.

Mr Mantzaris explained that there seems to be some issue about the actual compliance date. This Board has either the ability or maybe even the obligation to listen to information that may show that for whatever reason the compliance date was sooner than the county did, in all fairness to the Respondent.

He also stated there also were some issues about whether this would move into another phase and move into litigation that would cost some more resources.

The Board discussed these issues with Mr Mantzaris.

**Motion by Mr Tizzio, that this Board take no action with the addition that the people have to have the \$3,000.00 and let the Court proceedings go.**

**Motion rescinded by Mr Tizzio to read leave the fine at \$3,000.00 with the adage that they dismiss the other case and let this whole thing end for a measly \$3,000.00. Motion seconded by Mr Fahey.**

The Board then discussed this issue with county staff. Ms Leigh stated that Code Enforcement was not in favor of reducing the original fine of \$23,750.00 to \$3,000.00, and that the County Attorney has agreed and supported this reduction.

Mr France stated that the reason staff does not support reduction of this fine is because of the long history of abuse, a previous \$3,000.00 fine, work on the property without the proper permitting. If this is allowed to be continued, staff time will be wasted. He said he has spoken with the General Manager in the past and suggested that he speak with his commissioner about changing the ordinance as opposed to trying to violate it all the time.

At this point Mr Mantzaris stated that the Board should not listen to this history at all and that the motion and the second should be withdrawn. The only reason he had this brought forward today is that the County and the other party were willing to agree to that. There is a clear statement now that the County is not willing to agree with that. With this in mind, he can not say that is arrangement is fair now. It is clear now that the County has a position that is different, and with that in mind he cannot professionally in good conscience say that this needs to be recommended. The issue now needs to go back and let them decide, and that he apologized for bringing this back.

**Motion by Mr Tizzio, seconded by Mr Fahey was withdrawn.**

**COUNTY ATTORNEY'S CONSENT AGENDA**

Mr. McMillan updated the Board on Item #1, Robert Dance and Bob Dance Dodge, Inc. v. Seminole County Code Enforcement Board, et al. He stated Mr. Dance and his office have come to an agreement relative to the amount he has offered to pay. Mr. Dance has indicated that since no order has been issued to impose a fine, he would like a letter sent to him to that effect. He stated he sent a letter to Mr. Dance and he has agreed to dismiss the case. He added his office still needs authority to defend. He said his office will be working on the stipulations and the County would seek no fines at this point. Mr. Dance agreed to not put up the inflatables unless the ordinance changes. If the inflatables go up, the fine will run from the date they go up until they come down.

**Motion** by Commissioner Morris, seconded by Commissioner Van Der Weide to authorize and approve the following:

**Litigation**

1. Request authorization to defend relative to Robert Dance and Bob Dance Dodge, Inc. v. Seminole County Code Enforcement Board, et al. Plaintiffs seek a Writ of Certiorari overturning alleged decision of the Code Enforcement Board's levying a fine against Plaintiffs for violation of a County sign regulation; and alleging declaration of that Section of the Seminole County Code regulations of an inflatable advertising and display of balloon pennants, banners, flags and similar devices are unconstitutional.

CODE ENFORCEMENT BOARD  
SEMINOLE COUNTY, FLORIDA

SEMINOLE COUNTY, a political sub-  
division of the State of Florida,

CASE NO. 98-09-CEB

Petitioner,

vs.

ROBERT DANCE  
Bob Dance Dodge  
P.O. Box 521167  
Longwood, Florida 32752-1167

Respondent.

OFFICIAL RECORDS  
BOOK PAGE  
3699 0390  
SEMINOLE CO. FL

JOINT STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

I. FINDINGS OF FACT

(a) The Respondent is the owner of record of the property (Tax Parcel ID #22-20-30-300-010A-0000) located at 3775 N. Highway 17-92, located in Seminole County and legally described as follows:

SECTION 22 TWP 20S RGE 30E BEG SW COR OF SW ¼ OF NE ¼ RUN N TO ELY R/W N 40 DEG 40 MIN 54 SEC E 510 FT S 50 DEG 48 MIN 32 SEC E TO NLY R/W ST RD 427 SWLY ALONG R/W TO A POINT E OF BEG TO BEG

(b) The Respondent is in possession/control of the property.

(c) On January 22, 1998, the Seminole County Code Enforcement Board (Board) held a public hearing and found Respondent in violation of Section 30.1243(a)(2)(f) and Section 30.1245(f)<sup>1</sup>, Land Development Code of Seminole County, for displaying inflatable advertising displays, banners, pennants, flags, balloons or similar displays.

<sup>1</sup> Section 30.1245(f) has been subsequently redesignated Section 30.1245(6). For purposes of consistency, all references shall be to the former designation.

SEMINOLE COUNTY  
4 16 15 7  
1999 AUG -5 AM 7:56  
RECORDED & VERIFIED

(d) On or before January 29, 1998, Respondent complied with the Board's order and corrected the violation.

(e) On October 20, 1998, a Seminole County Code Inspector inspected the property and found inflatable devices displayed on the property in violation of Section 30.1243(a)(2)(f) and Section 30.1245(f), Land Development Code of Seminole County.

(f) On January 22, 1999, a Seminole County Code Inspector re-inspected the property and found inflatable devices were no longer displayed on the property.

(g) On January 28, 1999, the Board, at public hearing, verbally discussed and approved a \$23,750 fine on the property but took no action to memorialize the fine or record the fine as a lien.

## II. CONCLUSIONS OF LAW

(a) Respondent's display of inflatable advertising signage at various times during the years 1997, 1998, and 1999 was in violation of Section 30.1243(a)(2)(f) and Section 30.1245(f), Land Development Code of Seminole County.

(b) Beginning October 20, 1998 and continuing through January 28, 1999, Respondent was in repeat violation of Section 30.1243(a)(2)(f) and Section 30.1245(f), Land Development Code of Seminole County, for displaying inflatable advertising displays.

(c) The Board approval of the \$23,750 fine is hereby deemed without legal effect as no order was recorded in the official land records of Seminole County imposing a lien upon the property. The Board hereby withdraws its approval of any fine on the property.

(d) Section 30.1243(a)(2)(f) and Section 30.1245(f), Land Development Code of Seminole County, are constitutional exercises of Seminole County's police power and, by his execution of this Order, Respondent agrees to waive any legal challenges to the constitutionality of the referenced sections.

## III. ORDER

(a) It is hereby found that the subject property is in compliance with all past Orders of the Board.

(b) It is hereby found that no Code Enforcement fines are running against the property.

(c) It is hereby found that no Code Enforcement liens exist against the property.

(d) It is hereby found that Respondent is not in violation of Section 30.1243(a)(2)(f) and Section 30.1245(f), Land Development Code of Seminole County, as of the date of this Order.

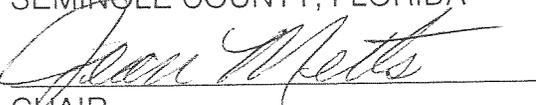
(e) By execution of this Order, Respondent agrees that he will no longer display signage prohibited by either Section 30.1243(a)(2)(f) or Section 30.1245(f), Land Development Code of Seminole County.

(f) It is hereby found that if Respondent does not comply with this Order, then any violation of either Section 30.1243(a)(2)(f) or Section 30.1245(f), Land Development Code of Seminole County, for the display of inflatable advertising shall be a repeat violation prosecutable as set forth in Section 162.06, Florida Statutes (1998). If, after hearing, the Board finds that Respondent was in repeat violation, then the Board shall order Respondent to pay a fine of \$ 250.00 for each day Respondent was in repeat violation which fine shall continue until such time as the Code Inspector inspects the property and establishes the date of compliance. Such order shall be recorded in the official land records of Seminole County and shall constitute a lien against the property.

(g) This Order shall be recorded in the official land records of Seminole County, Florida.

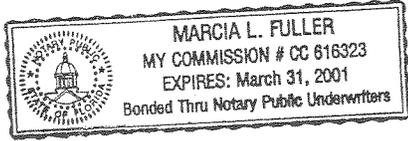
(h) This Order shall become effective immediately upon the Board's receipt of an Order of Dismissal in the case styled *Bob Dance Dodge, Inc. v. Seminole County Code Enforcement Board and Seminole County Commission*, Case No. 99-18, 18<sup>th</sup> Judicial Circuit.

**DONE AND ORDERED** this 22<sup>nd</sup> day of July, 1999, in Seminole County, Florida.

CODE ENFORCEMENT BOARD  
SEMINOLE COUNTY, FLORIDA  
  
CHAIR

STATE OF FLORIDA)  
COUNTY OF SEMINOLE )

The foregoing instrument was acknowledged before me this 22nd day of July, 1999, by Jean Metts, who is personally known to me.



Marcia L Fuller  
Marcia L. Fuller  
Notary Public to and for the  
County and State aforementioned.  
My Commission Expires:

Markus Street  
Witness

Robert Dance  
Robert Dance

Angela Cyprus  
Witness



OFFICIAL RECORDS  
BOOK PAGE  
3699 0393  
SEMINOLE CO. FL

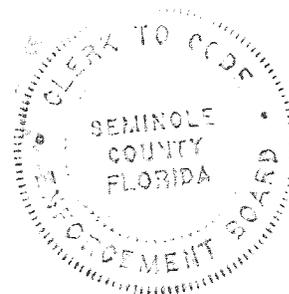
STATE OF FLORIDA)  
COUNTY OF SEMINOLE )

The foregoing instrument was acknowledged before me this 22 day of July, 1999 by Robert Dance, who is personally known to me or who has produced DRIVERS LICENSE as identification.



Fredrick G. W. Wuesthoff  
Commission # CG 835096  
Expires June 21, 2003  
Bonded Thru  
Atlantic Bonding Co., Inc.

[Signature]  
Notary Public to and for the  
County and State aforementioned.  
My Commission Expires:



  
GS

---

**GARY SIEGEL • ATTORNEY AT LAW**

---

6500 SOUTH HIGHWAY 17-92 • FERN PARK, FLORIDA 32730 • TEL. (407) 331-5848 • FAX (407) 339-0774

June 13, 2003

Bob McMillan  
Assistant County Attorney  
1101 E. First Street  
Sanford, FL 32771

RE: Seminole County vs. Robert Dance  
CEB No. 98-09

Dear Bob:

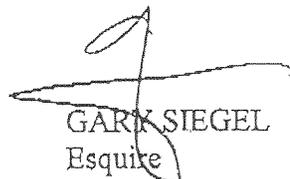
As you know I represent Robert Dance and Bob Dance Dodge, Inc. in the above entitled matter. On July 26, 2001, I appeared before the Code Enforcement Board regarding the fine issued against my client in the amount of \$20,500, and requested the CEB reduce the amount at that time.

As you may remember, the violation at issue had occurred when the management team was out of town and unknowing employees had put up banners not realizing the prohibition on such.

Also, at that July meeting the Chair stated that as long as my client was in compliance, we could come back before the Board and the CEB would 'take some action in our favor'. My client has worked diligently with the employees to prevent any further violations. It has been approximately two years since that hearing and there have been no violations by my client. My client requests that the CEB once again consider reducing this fine to \$3,000 and we request your scheduling this matter before the Board for its consideration.

Should you desire to discuss this matter or if there is anything further you require regarding this request, please give me a call at your earliest convenience. Thank you for your assistance with this request.

Sincerely,

  
GARY SIEGEL  
Esquire

GS/km

Received Time Jun. 16. 11:45AM

1

CODE OF ENFORCEMENT BOARD

SEMINOLE COUNTY

SANFORD, FLORIDA

COPY

IN RE: ROBERT DANCE (98-09)

JULY 26, 2001

1103 E. 2<sup>ND</sup> STREET  
SANFORD, FLORIDA

APPEARANCES:

Code Enforcement Board Members

Gary Siegel, Esquire

Victoria Ann Millonig & Associates  
407.774.4343

6

1 don't know how many exact days that the balloons  
2 were out, but I think - I don't know how many  
3 times you drive by there, but you know the  
4 balloons aren't out there everyday; am I correct?

5 MEMBER: That's true.

6 MR. SIEGEL: Again, we don't allow it. If  
7 they got out there, they got out there  
8 unintentionally and we made sure - I made sure, on  
9 one occasion myself, that they - "Hey, no balloons  
10 outside, we're not allowed to do that. -Bring them  
11 in."

12 I just want to emphasize that. I didn't  
13 realize it was the banners. If I knew that the  
14 banners hanging over a sign to replace that sign  
15 -- I mean, we have an existing sign there, we hang  
16 a banner over it because we just got a new Suzuki  
17 dealership. Had I realized that, I would have  
18 taken the banners down.

19 CHAIR: Sir, what we do - what we - what  
20 decision we make today is if we have an order  
21 finding that you are not in compliance and the  
22 fine runs, or whatever, you can still address this  
23 Board after you come into compliance and I'm sure  
24 the Board would be very happy to hear you're in  
25 compliance and take some action in your favor. I

Victoria Ann Millonig & Associates  
407.774.4343

Received Time Jun 16 11:45AM