

TOWN OF PALM BEACH

Information for Town Council Meeting on: November 8, 2022

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: 266 Colonial Lane – Third Strike & Stop Work Order

Date: October 24, 2022

FYI - This Memo is provided as Information to the Town Council

As you know, the Town has a “Three Strike Rule” for construction parking and construction site management. The regulations and process are found in the Town’s “Department of Public Works, Engineering Division, Standards Applicable to Public Rights-of-Way and Easements Within the Town of Palm Beach” (commonly called the Right-of Way-Manual), dated May 1994, as revised through January 12, 2022. Chapter XII, Miscellaneous Provisions, contains the details of the Three Strike rules. The regulations spell out the process in which contractors can secure parking permits, the fees for various violations, and the process that must occur once a contractor receives Three Strikes – three different sets of tickets for construction violations. The applicable pages of the Right of Way Manual are attached.

266 Colonial Lane recently reached the level of Three Strikes for construction violations. The contractor is Bella Construction Corp. The first violation occurred on July 11, 2022 for construction parking without a permit, issued by Public Works. The second violation occurred on September 7, 2022 for construction parking without a permit, issued by Code Enforcement. The third violation occurred on October 17, 2022 for inadequate maintenance of traffic - failure to carry out permit terms & conditions, issued also by Public Works. Copies of all violations are attached. The Pending Stop Work Order Notice (attached) was sent to the contractor October 17, 2022.

The regulations allow a time frame for the violator to appeal the ticket(s). In this case, since the last violation was issued by Public Works, the appeal was filed to Public Works Director Paul Brazil. The regulations required Mr. Brazil to hear / review the appeal (if filed) and render a ruling. Mr. Brazil found in favor of the Town, and therefore upheld the Third Strike. This decision occurred on October 24, 2022. The Planning, Zoning & Building Department issued a STOP WORK ORDER for the construction project on October 27, 2022.

The contractor owes the Town \$1,050.00 in fines and fees, at this time.

The Town Council's process for this matter is contained within the Public Works "Right of Way Manual", as follows:

"When the Town Council receives a written request to lift a stop work order the Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or property owner to enter into a binding agreement to memorialize the understandings between the Town and the contractor and/or property owner relative to all conditions placed upon the lifting of the stop work order, if applicable; establish penalties for future right-of-way violations the amount for which shall be in the sole discretion of the Town Council; collect the "3 strike" fine, plus payment of any outstanding right-of-way fines and accumulated interest, as referenced herein below and to prohibit the issuance of any additional right-of-way permits for the duration of the work in question.

The fine for a third (3rd) and each subsequent strike shall be \$500 plus payment of any outstanding right of-way fines and accumulated interest unless the Town Council chooses to invoke the use of a binding agreement memorializing a penalty structure to be paid to the Town for all future right-of-way violations in excess of three (3) to be paid in accordance with the terms and conditions of the binding agreement between the Town and the contractor and/or property owner. All fines and penalties shall be paid in full prior to issuance of a Certificate of Occupancy for the construction associated with the activity that generated the fines, penalties, and interest."

Any motion to resolve this matter should include "waiving the third strike" and "granting the ability for the contractor to apply for future right of way permits".

Attachments: Copies of the three violations
Copy of the Pending Stop Work Order Notice
Appeal Letter from the contractor
Town Decision on the Appeal

Cc: Paul Brazil, Director of Public Works
Police Chief Nicholas Caristo
Debby Moody



TOWN OF PALM BEACH

Public Works Department

October 24, 2022

Mr. Jeff Berkoff
Quality Design-Build & Remodeling Contractors
3626 Embassy Drive
West Palm Beach, FL 33401

Re: Third Strike 266 Colonial Lane

Mr. Berkoff:

On October 18, 2022, we received your appeal to the third strike citation issued on October 17, 2022. After reviewing your appeal and the circumstances of the citation, your appeal is being denied. Please see the attached pictures of why the citation was issued. You state in your letter that the September 7, 2022, violation was the result of the material supplier delivery service doing a site survey prior to their delivery. Even though you were not aware of this visit you are responsible for your subcontractors.

The October 17, 2022 violation was issued for unloading on North Ocean Boulevard, when the Right-Of-Way Permit was for North Lake Way. Colonial Lane is one-way and would require the forklift to travel the wrong way on Colonial Lane. There was also a lack of flagging operation necessary to make this activity safe. Lastly, the permit was for delivery of a forklift and not for the unloading of other materials at North Lake Way and Colonial Lane intersection. As you can see from the attached pictures, materials were being staged on the road at this intersection.

Since the appeal is being denied, a Stop Work Order will be issued October 25, 2022. All requests to lift a Stop Work Order are decided by the Town Council. The next Town Council meeting will be held Tuesday, November 8, 2022. In order for this item to be considered at this meeting, you will need to submit a written request to Wayne Bergman, Director of Planning, Zoning & Building no later than Wednesday, November 2, 2022, prior to 5:00 p.m.

Sincerely,



Paul Brazil, P.E.
Director of Public Works

cc: Wayne Bergman, Director of Planning, Zoning & Building
Patricia Strayer, Town Engineer
Debbie Moody, Planning, Zoning & Building Office Manager
Nick Caristo, Chief of Police
Craig Hauschild, P.E., Civil Engineer

MAILING ADDRESS: Post Office Box 2029 • 360 South County Road • Palm Beach, Florida 33480 • (561) 838-5440
LOCATION: Suite A • 951 Old Okeechobee Road • West Palm Beach, Florida 33401 • Fax No. (561) 835-4691

Bella Construction Corp

Quality Design-Build & Remodeling Contractors

CGC 1512434

3626 EMBASSY DRIVE WEST PALM BEACH FL 33401

Ph: [561] 722-6402 *** jb@bellaconst.net

October 18, 2022

Mr Paul Brazil
Dir of Public Works
Town of Palm Beach

RE: 3-strike rule – Stop work order pending 266 Colonial Ln B-21-87648

Dear Mr Brazil,

We kindly ask for an appeal regarding these recent violations.

When we began this project late last year, due to the nature of Colonial lane [1-way street & quite narrow], with considerable expense we created an 'on site parking & staging area' which included the entire front and east side of the property, graded and installed a gravel base, and can accommodate worker trucks & most deliveries. We built 2 temp large double gates that can open nearly the entire front when needed. The few 'large' truck deliveries deemed too big to fit [trusses for example] were broken into small loads and brought on medium flat bed trucks. Same with blocks, lintels, cement, & many other materials.

We have 2 prominent signs posted on site stating "Absolutely NO street parking- on site ONLY" Our project manager reiterated this rule weekly to any/all subs.

The first violation, back on 3-24-22, was from our Shell Contractor, S & D. The 2 guys from S & D were both stupid & lazy and disregarded our rules. We are sorry and paid those fines.

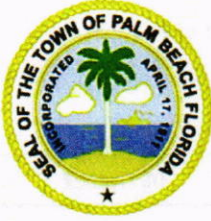
The info I have on these 2 recent violations [9-7-22 & 10-17-22] concern the same sub of a sub vendor of a sub [the delivery service [sub] for the roofing materials supplier [subs vendor] ordered by our roofing contractor [sub]. The 9-7-22 violation was the result of the material supplier delivery service doing a site survey prior to their delivery. Unfortunately, we did not know about this visit and on that day we had no work in progress or supervisor on the job site. The 10-17-22 violation appears to be this same delivery company transferring their delivery load from a large truck to a smaller truck in order to make the on site pull in possible. We had had a meeting with the roofing contractor [Right Call Roofing] 2 weeks ago, and had agreed upon a plan of using smaller trucks to bring the load- but had no clue they would do it in this way- and on N Ocean Blvd.

If you could please allow us some room on this issue it would be very much appreciated. This has been such a difficult job from day 1, Due to unknown site conditions & customer changes there were several revisions, which because of reviews & architect cooperation dragged out many months of little to no work. We have really been on track now since May and are hoping to complete this project before year end.

Once again, thanks for your time and sorry for these violations. We will double down going forward on the parking & delivery diligence for this job, promise.

Best Regards

Jeff Berkoff, Pres, Bella Construction Corp [561] 722-6402



TOWN OF PALM BEACH

Planning, Zoning & Building Department

October 17, 2022

Via email: jb@bellaconst.net

Bella Construction Corp
% Jeffrey D Berkoff
1327 N Palm Way
Lake Worth, FL 33460

Re: 3-Strike Rule Citations – **STOP WORK ORDER PENDING** 266 Colonial Ln, B-21-87648

As you know, the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach regulates the number of construction-related vehicles that can be parked on Town streets in conjunction with building project sites within the Town. Attached to all construction permits issued to a job is information regarding these regulations.

This letter is to serve as notice that on **three** separate occasions you have received parking citations:
Strike 3 October 17, 2022 (PW-6901 - Inadequate Maintenance of Traffic, Failure to carry-out permit terms/conditions)
Strike 2 September 7, 2022 (PD-00385 – Construction Parking without a permit)
Strike 1 July 11, 2022 (PW-6373 – Construction parking without a permit)

Therefore, under the Town's rules (referred to as the "3-strike" rule), the Director of Public Works has notified the Planning, Zoning & Building Department of these violations, and requested that a **"Stop Work"** order be issued as allowed by Section 18-204 of Town Code.

Per Town Resolution No 001-2022, because you have received these strikes, a fine in the amount of \$500.00 is being imposed and is also payable immediate to the Town of Palm Beach. This fine is in addition to all right-of-way fines referenced above. Invoice #81126 is attached.

An appeal to the Public Works Director needs to be submitted in writing within 10 days of the issuance of your strike. If an appeal is denied or is not filed in a timely fashion, a "Stop Work" order will be issued by the Building Official effective the end of the working day October 27, 2022. After that date, no work may be performed at the site under any permits issued by the Town of Palm Beach.

All requests to lift a **"Stop Work"** order would need to be decided by the Town Council. The next Town Council meeting date is Tuesday, November 8, 2022. In order for this item to be considered at that meeting, you would need to submit a written request to me no later than **Wednesday, November 2, 2022, prior to 5:00 PM.**

Sincerely,

Wayne Bergman

Wayne Bergman
Director, Building Official, Director, Planning, Zoning & Building Department

cc: Nonsuch Productions Ltd, % Brunton Strachan & Kahn, 4710 NW Boca Raton Blvd, Ste 101, Boca Raton FL 33431
K. Blouin, Town Manager
H. Paul Brazil, Public Works Director
Nicholas Caristo, Police Chief
Benjamin Alma, Parking and Code Enforcement Manager



TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
(561) 838-5444

INVOICE

81126

Page 1 of 1

DATE	10/17/2022
ACCOUNT	MI-000312
AMT DUE	500.00

BELLA CONSTRUCTION CORP
1327 N PALM WAY
LAKE WORTH, FL 33460

AMOUNT PAID _____



PAY YOUR STATEMENT ONLINE AT: [HTTPS://TOWNOFPALMBEACH.COM/EDENAR](https://TOWNOFPALMBEACH.COM/EDENAR)

TOWN OF PALM BEACH

MAKE CHECKS PAYABLE TO TOWN OF PALM BEACH
PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

DESCRIPTION	AMOUNT
FINE 3-STRIKE RULE STRIKE 3 Fine for Strike 3 - 266 Colonial Ln	500.00
Total Amount Due:	500.00
ACCOUNT NO. MI-000312	PAYABLE UPON RECEIPT 500.00

Please Remit to: TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480

Pay your Statement online at: <https://TownofPalmBeach.com/EDENAR>
Log in or Register as a New User and connect to your account by entering your Account No and Invoice number.



TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480
(561) 838-5444

INVOICE

79025

Page 1 of 1

DATE	09/08/2022
ACCOUNT	MI-000312
AMT DUE	250.00

BELLA CONSTRUCTION CORP
1327 N PALM WAY
LAKE WORTH, FL 33460

AMOUNT PAID _____



PAY YOUR STATEMENT ONLINE AT: [HTTPS://TOWNOFPALMBEACH.COM/EDENAR](https://TOWNOFPALMBEACH.COM/EDENAR)

TOWN OF PALM BEACH

MAKE CHECKS PAYABLE TO TOWN OF PALM BEACH
PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

DESCRIPTION	AMOUNT
FINE 3-STRIKE RULE STRIKE 2 Fine for 2 strikes - 266 Colonial Ln	250.00
<div>Total Amount Due:</div>	250.00
Fine for 2 strikes - 266 Colonial Ln	
ACCOUNT NO. MI-000312	PAYABLE UPON RECEIPT 250.00

Please Remit to: TOWN OF PALM BEACH
Finance Department
360 South County Road
PO Box 2029
Palm Beach, FL 33480

Pay your Statement online at: <https://TownofPalmBeach.com/EDENAR>
Log in or Register as a New User and connect to your account by entering your Account No and Invoice number.



PW- 6901

PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: Bella Construction Corp. DATE: 10/17/22
JOB ADDRESS: 266 Colonial

- | | |
|--|----------------------------------|
| <input type="checkbox"/> Working in right-of-way without permit | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Failure to have permit on job | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Construction parking without permit* | \$ 150 X _____ = _____ |
| <input checked="" type="checkbox"/> Inadequate Maintenance of Traffic | \$ 150 X <u>1</u> = <u>\$150</u> |
| <input type="checkbox"/> Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| <input checked="" type="checkbox"/> Failure to carry-out permit terms/conditions
<u>Loading on Nassau</u> | \$ 150 X <u>1</u> = <u>\$150</u> |
| <input type="checkbox"/> Storage of materials in right-of-way | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Use of right-of-way as work area | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Dewatering without a permit | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| <input type="checkbox"/> Other _____ | \$ _____ X _____ = _____ |
| <input type="checkbox"/> 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

TOTAL FINE: \$300

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., PO Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Public Works Office at 561-838-5440.

* Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

** Fine plus clean-up cost.

*** Includes but not limited to:

Dumpster in Right of Way - \$100 per incident.

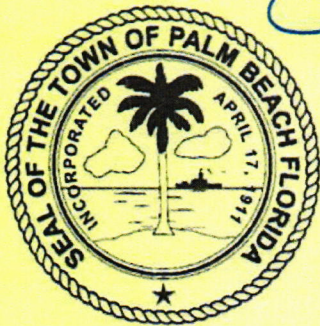
Right of Way restoration - \$30 per day until restored.

ISSUER

A. J. Purcell

copy to low/PW

pink/issuer



CE 22-1605

PD-00385

POLICE DEPARTMENT

(561) 838-5454

R.O.W. VIOLATION NOTICE

NAME: Bella Construction Corp DATE: 9-7-2022JOB ADDRESS: 266 Colonial LN.

- | | |
|--|-----------------------------------|
| <input type="checkbox"/> Working in right-of-way without permit | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Failure to have permit on job | \$ 150 X _____ = _____ |
| <input checked="" type="checkbox"/> Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X <u>2</u> = <u>300.00</u> |
| <input type="checkbox"/> Inadequate Maintenance of Traffic | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Right-of-way littered by site dirt or debris | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Failure to maintain safe sidewalk | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Storage of materials in right-of-way | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Use of right-of-way as work area | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Damage to infrastructure in right-of-way | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Dewatering without a permit | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Illegal discharges to Town sewers** | \$ 500 X _____ = _____ |
| <input type="checkbox"/> Other _____ | \$ _____ X _____ = _____ |
| <input type="checkbox"/> 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

TOTAL FINE: \$ 300.00

PTX905
52B LMZ → FL Tigs.

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., P.O. Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Police Department at 561-838-5454.

*Parking violations are per vehicle per day. Parking placard must be displayed in vehicle.

**Fine plus clean-up cost.

***Includes but not limited to:

Dumpster in Right of Way \$100 per incident.

Right of Way restoration - \$30 per day until restored.

ISSUER J. Felix / 9080

white/violator

yellow/PW

pink/issuer



PW- 6373

PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: Bella Construction Corp DATE: 3/24/22JOB ADDRESS: 266 Colonial

- ☐ Working in right-of-way without permit \$ 150 X _____ = _____
- ☐ Failure to have permit on job \$ 150 X _____ = _____
- ☒ Construction parking without permit* S+D shell (inter. strike) \$ 150 X 2 = \$ 300
1st = \$150 2nd = \$250 and thereafter = \$500
- ☐ Inadequate Maintenance of Traffic \$ 150 X _____ = _____
- ☐ Right-of-way littered by site dirt or debris \$ 150 X _____ = _____
- ☐ Failure to maintain safe sidewalk \$ 150 X _____ = _____
- ☐ Failure to carry-out permit terms/conditions \$ 150 X _____ = _____
- ☐ Storage of materials in right-of-way \$ 150 X _____ = _____
- ☐ Use of right-of-way as work area \$ 150 X _____ = _____
- ☐ Damage to infrastructure in right-of-way \$ 150 X _____ = _____
- ☐ Dewatering without a permit \$ 150 X _____ = _____
- ☐ Illegal discharges to Town sewers** \$ 500 X _____ = _____
- ☐ Other _____ \$ _____ X _____ = _____
- ☐ 2nd and added days of violation, double fine \$ _____ X _____ = _____

Plate IFW-F76
227-EEZTOTAL FINE: \$ 300

Total fine to be paid within 10 working days to: Town of Palm Beach, Finance Dept., PO Box 2029, Palm Beach, FL 33480, may also be paid in person at 360 S. County Road, Palm Beach, FL 33480. Please attach a copy of this violation with payment, check must reference violation number. No further permits will be issued until fine is paid. Should you wish to contest this violation call the Public Works Office at 561-838-5440.

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Dumpster in Right of Way - \$100 per incident.

Right of Way restoration - \$30 per day until restored.

ISSUER: Chet Purves

white/violator

yellow/PW

pink/issuer