

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: 1540 S. Ocean Blvd. – Third Strike & Stop Work Order

Date: November 1, 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.

1540 S. Ocean Blvd. recently reached the level of Three Strikes for construction violations. The contractor is Seagate Capital Construction. The first violation occurred on March 29, 2022 for right of way work without a permit and inadequate maintenance of traffic, issued by Public Works. The second violation occurred on October 19, 2022 for violation of construction hours, issued by Code Enforcement. The third violation occurred on October 24, 2022 for right of way work without a permit and inadequate maintenance of traffic, issued by Police. Copies of all violations are attached. The Pending Stop Work Order Notice (attached) was sent to the contractor October 26, 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 Police, the appeal was filed to Chief Nicholas Caristo. The regulations required Chief Caristo to hear / review the appeal (if filed) and render a ruling. Chief Caristo found in favor of the Town, and therefore upheld the Third Strike. This decision occurred on October 31, 2022. The Planning, Zoning & Building Department issued a STOP WORK ORDER for the construction project on November 2, 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



PW- 6377

PUBLIC WORKS DEPARTMENT
(561) 838-5440**R.O.W. VIOLATION NOTICE**NAME: Seagate Capital DATE: 3/29/22JOB ADDRESS: 1540 S Ocean

- | | | | | | |
|-------------------------------------|--|------------|----------|---|--------------|
| <input type="checkbox"/> | Working in right-of-way without permit | \$ 150 X | _____ | = | _____ |
| <input checked="" type="checkbox"/> | Failure to have permit on job | \$ 150 X | <u>1</u> | = | <u>\$150</u> |
| <input checked="" type="checkbox"/> | Construction parking without permit* | \$ 150 X | _____ | = | _____ |
| | 1 st = \$150 2 nd = \$250 and thereafter = \$500 | | | | |
| <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 | \$ 150 X | <u>1</u> | = | <u>\$150</u> |
| | <i>Not Parked in Front of Site</i> | | | | |
| <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: \$450

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.

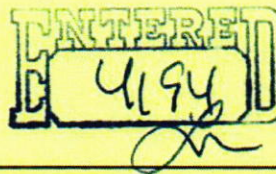
Right of Way restoration - \$30 per day until restored.

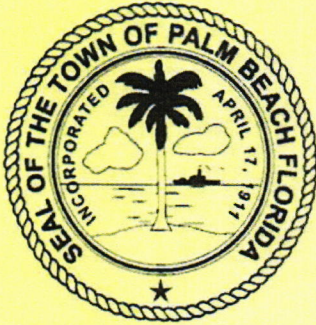
ISSUER: Chat Purves

white/violator

yellow/PW

pink/issuer





PD- 01452

POLICE DEPARTMENT
(561) 838-5454**R.O.W. VIOLATION NOTICE**NAME: Sengale Capital Construction LLC DATE: 10-17-20JOB ADDRESS: 1540 S. Ocean Blvd

- | | |
|---|----------------------------------|
| <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*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 150 X _____ = _____ |
| <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 checked="" type="checkbox"/> Other <u>Construction Hours</u> | \$ <u>250</u> X <u>1</u> = _____ |
| <input type="checkbox"/> 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

TOTAL FINE: \$250.00

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.

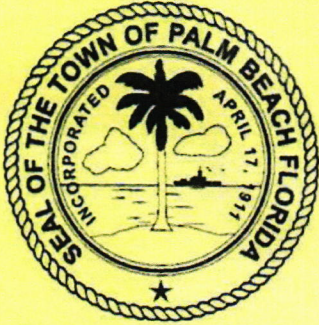
Right of Way restoration - \$30 per day until restored.

ISSUER J. Felix / 9080 CAD # 2062-272062

white/violator

yellow/PW

pink/issuer



PD-01454

POLICE DEPARTMENT
(561) 838-5454**R.O.W. VIOLATION NOTICE**NAME: CAPITAL Construction Development DATE: 10-24-22JOB ADDRESS: 1540 S. Ocean Blvd

- | | |
|---|--------------------------------|
| <input checked="" type="checkbox"/> Working in right-of-way without permit | \$ 150 X <u>1</u> = <u>150</u> |
| <input type="checkbox"/> Failure to have permit on job | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Construction parking without permit*
1 st = \$150 2 nd = \$250 and thereafter = \$500 | \$ 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 type="checkbox"/> Failure to carry-out permit terms/conditions | \$ 150 X _____ = _____ |
| <input type="checkbox"/> Storage of materials in right-of-wy | \$ 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.**, 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 P3 P2335 0197 2020-2977/09

white/violator

yellow/PW

pink/issuer



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

INVOICE

81136

Page 1 of 1

DATE	10/26/2022
ACCOUNT	MI-000320
AMT DUE	500.00

SEAGATE CAPITAL CONSTRUCTION
400 VILLAGE SQ
Unit 3
PALM BEACH GARDENS, FL 33410

AMOUNT PAID _____



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

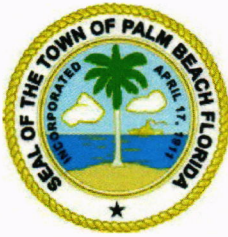
TOWN OF PALM BEACH

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 - 1540 S OCEAN BLVD	500.00
Total Amount Due:	500.00
ACCOUNT NO. MI-000320	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

Planning, Zoning & Building Department

October 26, 2022

Via email: ggraue@seagate-capital.com;
david@seagate-capital.com; skirsch@drifund.com

Seagate Capital Construction LLC
% Garrett Graue
400 Village Sq, Suite 3
Palm Beach Gardens, FL 33410

Re: **STOP WORK ORDER PENDING** 3-Strike Rule Citations – 1540 S Ocean Blvd, B-21-91998

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 24, 2022 (PD 01454 Working in right-of-way without permit, Inadequate Maintenance of Traffic)
Strike 2 October 19, 2022 (PD-01452 – Construction Hours)
Strike 1 March 29, 2022 (PW-6377 –Failure to have permit on job, Inadequate Maintenance of Traffic, Failure to carry-out permit terms/conditions)

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 # 81136 is attached.

An appeal to the Police Chief needs to be submitted in writing no later than October 31, 2022 (within 7 days). 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 31, 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.**

Truly yours,

Wayne Bergman

Wayne Bergman
Director, Building Official

cc: 1540SOCEAN LLC, 319 Clematis St, 808, West Palm Beach, FL 33401
K. Blouin, Town Manager
H. Paul Brazil, Public Works Director
Nicholas Caristo, Police Chief
Benjamin Alma, Parking and Code Enforcement Manager



October 31, 2022

Town of Palm Beach Police Department
Attn: Nicolas P. Caristo, Chief of Police
345 S County Road
Palm Beach, FL 33480

Re: 1540 S Ocean Blvd.
B-21-91998

Chief Caristo,

Our company is the General Contractor for a new home construction project located at 1540 S Ocean Blvd. I am writing to you to respectfully appeal the citation letter that we received on October 26, 2022. This citation was issued as a result of the site contractor sending a grapppling truck to pickup debris on the East side of our property. My superintendent had previously notified the site contractor that we had room inside our property for their truck to park and then reach over our construction fence so the debris could be picked up from within our property rather than from the outside street. I checked the permit record and we have pulled 24 Right of Way permits during this project so we are familiar with the requirement and procedure for Right of Way permits and would have pulled the permit if necessary. Unfortunately the site contractor did not convey the information about parking inside our property to the driver who proceeded to pull up on the outside of the road to collect the debris. My superintendent was onsite during this time but at the opposite end of the property and therefore unaware that the truck was out front. As soon as my superintendent was notified that the site contractor driver was out front he immediately asked him to leave and reminded him that he needed a ROW permit for any activity in the road. I apologize for this violation as we are aware of the requirement for ROW permits and properly notified our site contractor if one was required. I'm respectfully asking for you to grant an appeal of this citation. Thank you for your consideration.

Thank you,

A handwritten signature in blue ink, appearing to read 'JMA', is written over a light blue horizontal line.

Joshua McAlees
Principal

561.623.1046
400 Village Square Crossing, Suite 3 | Palm Beach Gardens, FL 33410
CGC-1531232

Wayne Bergman

From: Nicholas Caristo
Sent: Monday, October 31, 2022 1:16 PM
To: Josh McAlees
Cc: Wayne Bergman; Benjamin Alma
Subject: RE: 1540 S Ocean Blvd.

Good afternoon Mr. McAlees,

I am in receipt of your appeal request.

Town Ordinance allows ten days after each violation to contest the violation. You have elected to contest R.O.W. Violation Notice #PD-01454, issued on October 24, 2022, for Working In Right-of-Way Without Permit and Inadequate Maintenance of Traffic.

After thorough review of the Town Ordinance and the Town's Right-of Way Manual along with stated violations, the request for dismissal of the violation PD-01454 is denied.

As previously stated in your prior appeal, with the recent changes in Town ordinances and the Town's commitment to strongly enforce construction site violations, I have an obligation to ensure consistencies in the enforcement.

Sincerely,

Nicholas Caristo
Chief of Police

Palm Beach Police Department
345 South County Road
Palm Beach, FL 33480
561-838-5454

From: Josh McAlees <josh@seagate-capital.com>
Sent: Monday, October 31, 2022 12:51 PM
To: Nicholas Caristo <NCaristo@PalmBeachPolice.com>
Cc: Wayne Bergman <wbergman@TownOfPalmBeach.com>
Subject: 1540 S Ocean Blvd.

*****Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.*****

Chief Caristo,
Please see attached letter requesting an appeal of our recent Right of Way violation for 1540 S Ocean Blvd.

Thank you,

JOSH McALEES