

TOWN OF PALM BEACH

Information for Town Council Meeting on: February 14, 2023

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

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

Re: 236 Pendleton Avenue – Three Strikes & Stop Work Order

Date: February 2, 2023

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 November 8, 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.

236 Pendleton Avenue recently reached the level of three (3) Strikes for construction-related violations. The prime contractor is Shoreline Building Group, LLC. The initial Warning Notice and the Stop Work Order Pending Notice (attached) were sent to the property owner and contractor. Please refer to the attached letter dated January 30, 2023 for the details of the Three Strikes.

The regulations allow a time frame for the violator to appeal the ticket(s). In this case, since the third violation was issued by Police, the appeal was filed with the 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 February 1, 2023. The Planning, Zoning & Building Department will issue a STOP WORK ORDER for the construction project on or about February 6, 2023.

The contractor owes the Town \$750.00 in fees, plus any unpaid fines, at this time.

This is the first time that Shoreline Building Group, LLC has been before you with Three Strike projects. Copies of all violations are attached.

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

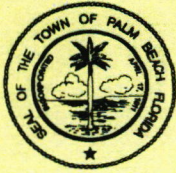
"When the Town Council receives a written request to lift a stop work order the Town Council shall have the power to admonish the contractor; take such action as deemed necessary to effect the stop work order on a permanent basis by nullifying the existing building permit; cause the contractor and/or 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 fine as outlined below, 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) strike shall be \$500; the fine and penalty for a fourth (4th) strike shall be a fine of \$2,500 and a mandatory thirty (30) day shutdown of the construction project; the fine and penalty for a fifth strike shall be a fine of \$5,000 and a mandatory thirty (30) day shutdown of the construction project, 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 Violations
Copy of Warning Notice
Copy of the Stop Work Order Pending Notice
Copy of the Appeal Letter
Copy of the Appeal Decision

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



PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: Shoreline Building DATE: 8.29.22

JOB ADDRESS: 236 Reddleton

- | | |
|---|--------------------------------|
| <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 checked="" type="checkbox"/> Storage of materials in right-of-way | \$ 150 X <u>1</u> = <u>150</u> |
| <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 _____ = _____ |

margan unload/load drywall from R.O.W.
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 *[Signature]*

white/violator

yellow/PW

pink/issuer



PW- 6955

PUBLIC WORKS DEPARTMENT
(561) 838-5440

R.O.W. VIOLATION NOTICE

NAME: Shoreline Building DATE: 10-11-22JOB ADDRESS: 236 Pendleton

- | | |
|--|--------------------------------|
| <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>1</u> = <u>150</u> |
| <input type="checkbox"/> Inadequate Maintenance of Traffic | \$ 150 X _____ = _____ |
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| <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 _____ = _____ |

*Shoreline truck using expired
Tag / Flipped it backwards*

TOTAL FINE: 150

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: *[Signature]*

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

81120

Page 1 of 1

DATE	10/12/2022
ACCOUNT	MI-000313
AMT DUE	250.00

SHORELINE BUILDING GROUP LLC
2500 BROADWAY
WEST PALM BEACH, FL 33407

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 2 236 Pendleton Ave, Fine for Strike 2	250.00
Total Amount Due:	250.00

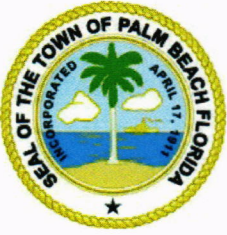
ACCOUNT NO. MI-000313

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.



TOWN OF PALM BEACH

Planning, Zoning & Building Department

October 12, 2022 Via email & mail: CHRISTINA@SHORELINEBUILDINGGROUP.COM; dleiva@shorelinebuildinggroup.com; bijonmemar100@gmail.com

Shoreline Building Group LLC
% Daniel Leiva
2500 Broadway
West Palm Beach, FL 33407

Re: **Warning Notice** Construction Parking & Construction Site Management Citations – 236 Pendleton Ave, B-21-91953

On October 11, 2022, you received a citation for violations of the “3-Strike Rule”, which regulates the number of construction-related vehicles that can be parked on Town streets and construction site management. These regulations are contained in the Town of Palm Beach Standards Applicable to Public Rights-Of-Way And Easements Within The Town Of Palm Beach and information regarding these regulations is attached to all construction permits issued to a job site.

If three citations are received, the Chief of Police or the Director of Public Works may notify the Planning, Zoning & Building Department of these violations, and request that a “**Stop Work**” order be issued as allowed by Section 18-204 of Town Code (referred to as the “3-strike” rule).

Your project has received **two citations, constituting two strikes**:

Strike 2 October 11, 2022 (PW-6955 – Construction Parking without a permit)

Strike 1 August 29, 2022 (PW-6179 – Working in right-of-way without permit, inadequate maintenance of traffic, storage of materials in right-of-way)

Also, per Town Resolution No. 001-2022, because you have received two strikes, fines in the amount of \$250.00 are being imposed and is payable immediately to the Town of Palm Beach. This fine is in addition to all right-of-way fines referenced above. See attached Invoice # 81120.

This is to notify you that if you receive another citation, under the Town’s rules a “Stop Work” order will be issued by this Department and additional fines shall be imposed. Please note that if a “Stop Work” order is issued by the Building Official, no work may be performed at the site under any permits issued by the Town of Palm Beach, until the Town Council determines if and under what conditions the work may proceed.

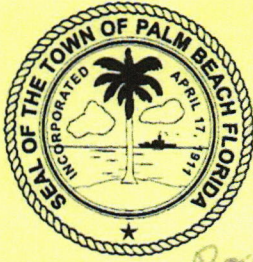
Your cooperation in observing the construction regulations of the Town will assist in ensuring that your job proceeds without disruption.

Sincerely,

Wayne Bergman

Wayne Berman
Director, Planning, Zoning & Building Department

cc: 236 Pendleton Ave LLC, 308 North Main Street Trust, Kevin A Daigh, 2870 Peachtree Park Dr NE #218, Atlanta, GA 30309
Kirk Blouin, Town Manager
H. Paul Brazil, Public Works Director
Nicholas Caristo, Police Chief
Benjamin Alma, Support Services Manager



PD- 00638

POLICE DEPARTMENT
(561) 838-5454**R.O.W. VIOLATION NOTICE**NAME: Res. Joseph Shoreline Building Group DATE: Jan 28, 2023JOB ADDRESS: 236 Pendleton Ave

- | | |
|---|---------------------------------------|
| <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> = <u>250</u> |
| <input type="checkbox"/> 2nd and added days of violation, double fine | \$ _____ X _____ = _____ |

TOTAL FINE: 250.00

*Working during winter hrs (Saturday) (8-22 93261)

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. OLIVERES 10272 2023-028-065

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

82200

Page 1 of 1

DATE	01/30/2023
ACCOUNT	MI-000313
AMT DUE	500.00

SHORELINE BUILDING GROUP LLC
2500 BROADWAY
WEST PALM BEACH, FL 33407

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 3 236 Pendleton Ave	500.00
Total Amount Due:	500.00

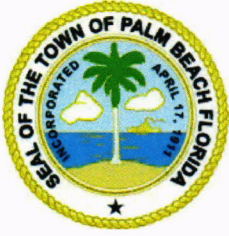
ACCOUNT NO. MI-000313

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

January 30, 2023

Via email & mail: invoices@shorelinebuildinggroup.com;
pbeans@shorelinebuildinggroup.com; dleiva@shorelinebuildinggroup.com;
bijonmemar100@gmail.com

Shoreline Building Group LLC
% Daniel Leiva
2500 Broadway
West Palm Beach, FL 33407

Re: **STOP WORK ORDER PENDING** - 3-Strike Rule Citations – 236 Pendleton Ave, B-21-91953

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 citations:
Strike 3 January 28, 2023 (PD-000638 – Construction Hours, Working During Winter Hours on Saturday)
Strike 2 October 11, 2022 (PW-6955 – Construction Parking without a permit)
Strike 1 August 29, 2022 (PW-6179 – Working in right-of-way without permit, inadequate maintenance of traffic, storage of materials in right-of-way)

Therefore, under the Town's rules (referred to as the "3-strike" rule), the Director of Public Works and Police Chief have 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 # 82200 is attached.

An appeal to the Police Chief needs to be submitted in writing 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 February 6, 2023. 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, February 14, 2023. 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, February 8, 2023, prior to 5:00 PM.**

Post Office Box 2029 * 360 South County Road * Palm Beach, FL 33480 * (561) 838-5430

Truly yours,

Wayne Bergman

Wayne Bergman
Director, Planning, Zoning & Building Department

cc: 236 Pendleton Ave LLC, 308 N Main St Tr, Kevin A Daigh, 2870 Peachtree Pk Dr NE 218, Atlanta, GA 30309
K. Blouin, Town Manager
H. Paul Brazil, Public Works Director
Nicholas Caristo, Police Chief
Benjamin Alma, Parking and Code Enforcement Manager



3 STRIKE APPEAL – 236 PENDLETON AVE

Project: 236 Pendleton Ave – Permit# B-21-91953

Date: Tuesday, January 31, 2023

To Nicholas Caristo & Wayne Bergman:

We are writing to appeal the stop work order that is issued per 3-Strike Rule Citations for Permit #B-21-91953.

The first strike we received was for expired parking permit. This was a clerical error on our end in not re-applying for the pass and has not happened since.

The next strike is when our drywaller went to the jobsite to delivery drywall without a right-of-way permit. This was a lesson learned for us.

The last strike was this last Saturday. As we are roughly 30 days or less from finishing the house to list on market, our Owner asked us to install hardware for access on the weekend for showings. Our superintendent Paul Beans met the installer for one hour to show him the door, the installer fixed the door, then left. We know working on Saturday is not permitted; however, this was for the Owner and his ability to the sell the home.

We try very diligently to be great neighbors while we build our clients home and feel responsibility for not meeting the mark.

We hope you will allow us the opportunity to finish the Owners home in the next 30 days to not limit any future disturbance to the Town or 236 neighbors.

Sincerely,

Daniel Leiva & Paul Beans
Owner of Shoreline Building Group



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



February 1, 2023

Shoreline Building Group
Mr. Paul Clippinger, Senior Project Manager
2500 Broadway
West Palm Beach, FL 33407

Re: Code Violation – 236 Pendleton Avenue, Palm Beach

Dear Mr. Clippinger,

I am in receipt of your appeal request.

Town Ordinance allows ten days after each violation to contest the violation. The last strike issued on January 28, 2023, was for construction hour violation for work being conducted on a Saturday, which is prohibited. Additionally, on March 3, 2022, Code Enforcement issued a field warning for the same violation; working on a Saturday.

After thorough review of the Town Ordinances and the Town's Right-of Way Manual, the request for dismissal of the violation is denied.

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 and appeal process. You may contact the Planning, Zoning, and Building Department for any next steps in appearing before Town Council or restarting work.

Sincerely,

Nicholas Caristo
Chief of Police

cc: Paul Brazil, Director of Public Works
Wayne Bergman, Director of Planning, Zoning and Building