

MINUTES
CITY OF KEY COLONY BEACH
CODE ENFORCEMENT BOARD

October 14, 2020 9:30 a.m.
Marble Hall & Virtually via Zoom Conferencing

Call to Order, Pledge of Allegiance: The regular meeting of the Key Colony Beach Code Board was called to order by Chair Joey Raspe at 9:30 a.m. followed by the Pledge of Allegiance.

Roll Call: *Present:* Chairperson Joey Raspe, Vice-Chair John Dalton, Gary Furtak, Kathryn McCullough, Cheryl Boehm (Virtually), and George Lancaster (Virtually).

Also Present: City Clerk Rebecca Todd, Executive Assistant Saara Staten, City Attorney Thomas Wright, Code Board Attorney Richard Malafy (Virtually), Building Official Gerard Roussin, and Building Inspector Greg Lawton.

Excused: Larry Wagner.

Public (Virtually): 24

Approval of Minutes: Code Enforcement Board Hearing September 9, 2020.

MOTION: Motion made by Vice-Chair John Dalton, seconded by Chairperson Joey Raspe to approve the minutes of September 9, 2020 with the requested name correction.

ON THE MOTION: Roll Call Vote. Unanimous approval.

Swearing in of Witnesses to Testify: All persons who may give testimony were sworn in by Code Board Attorney Malafy.

Notice: Chairperson Joey Raspe read the notice into the record. Board members reported no Ex-parte communications. Attorney Wright reported receiving emails prior to this hearing pertaining to the cases for reconsideration from Board Member Gary Furtak who also sent the information to all the other board members. Attorney Wright again cautioned Board members to cease any communication regarding cases outside of the hearings. Gary Furtak stated it was information that he believed should have been provided to the Code Board by the City prior to the hearing. City Clerk Todd apologized for not initially distributing the information due to all of it being previously provided in the original agenda packet. City Clerk Todd also reported conferring with Chairperson Joey Raspe regarding not including the information again and got his approval. Gary Furtak insisted on the need for the Code Board to receive pertinent information to rehear cases. Attorney Wright stated the work of a Code Board is done at the Public hearing where the respondent has a chance to hear what the Board hears to ensure procedural due process. All deliberations, considerations and communications that take place outside of the hearing are improper. Code Attorney Malafy stated the job of the City is to present the case with the evidence that they choose to the Code board, similar to the prosecutor of a case. The Code Board sits as the judge to hear the evidence and then makes a decision based on what was presented. Board Members cannot go out and investigate on their own or request documents prior to the hearing. Code Attorney Malafy agreed with Attorney Wright regarding the role of the Board. Gary Furtak stated that if there is no new evidence, the case should not be reheard, and the City cannot tell them to rehear the case. Attorney Wright stated the City is not going to compel the Board to do anything. The City included these cases for reconsideration in the agenda because the City feels that inappropriately harsh punishments were handed down at the prior meeting. Attorney Wright urged the entire Board to weigh in on the decision to reconsider the violation on the below listed cases. Chairperson Raspe questioned why the Staff did not recommend a different penalty at the prior hearing. Building Official Roussin stated he did not realize the severity of the penalty at the time. Building Official Roussin calculated the numbers and for a 6-month suspension of a license,

with the average rental being \$1,750 a week, that results in a penalty of approximately \$45,500. Kathryn McCullough stated she does not mind revisiting the cases to ensure that the proper penalty was issued to achieve compliance. Vice Chair John Dalton urged the Board to continue with the proceeding.

New Cases for Hearing: None.

Revisit Prior Cases:

1. 34 Sadowski Causeway

A. Robert Lewis – Owner - DBPR 61C-3.001 Sanitation & Safety Requirements

B. Leanore Lapid – Property Manager - DBPR 61C-3.001 Sanitation & Safety Requirements

Cheryl Boehm recused herself from the above case. Owner Robert Lewis questioned whether his witness will be able to testify to the cleaning of his property. Attorney Jim Doral, representative of Robert Lewis, requested a mitigation of penalties given Mr. Lewis' request for continuance was denied at the prior hearing. Chairperson Raspe stated the Board should vote if the penalties will be reassessed or not prior to hearing any new testimony.

MOTION: Motion made by George Lancaster, seconded by Kathryn McCullough to reconsider the penalties imposed on 34 Sadowski Causeway.

ON THE MOTION: Roll Call Vote. Joey Raspe (No), John Dalton (No), Gary Furtak (No), George Lancaster (Yes), Kathryn McCullough (Yes). Motion failed.

2. 331 3rd Street

A. Mr. & Mrs. James Williamson – Owner – DBPR 61C-3.001 Sanitation & Safety Requirements

B. Gregg Saeger – Property Manager – DBPR 61C-3.001 Sanitation & Safety Requirements

Dwayne Williamson, son of owner James Williamson, stated his parents spend about half the year living in the unit and take pride in their property. Mr. Williamson urged the Code Board to reconsider the excessive penalties for the first-time violation with 10 years of rental. Attorney Wright stated the City joins Mr. Williamson and feels that a 6-month vacation rental license suspension for a first violation goes beyond what is necessary to achieve compliance and seems punitive and wildly inappropriate. Chairperson Raspe disagreed and stated that the enhanced cleaning procedures are a protection from COVID-19. Gary Furtak agreed with Chairperson Joey Raspe.

MOTION: Motion made by Kathryn McCullough, seconded by George Lancaster to reconsider the penalties imposed on 331 3rd Street.

ON THE MOTION: Roll Call Vote. Joey Raspe (No), John Dalton (No), Gary Furtak (No), George Lancaster (Yes), Kathryn McCullough (Yes), Cheryl Boehm (No). Motion failed.

Update on Outstanding Code Violations:

- 1. 820 10th Street – Owner: Bruce Schmitt – City Ordinance Chapter 6, Section 56 – Building and Property Maintenance.** Building Official Roussin reported Mr. Schmitt completing the first part of the violation by replacing the soffit and fixing driveway issues. Last meeting, Building Official Roussin was waiting for the paperwork from Shawn Kerwin on Mr. Schmitt's seawall. It has gone through Army Corps and D.E.P., copies of the letters were provided to the Building Department. The permit has been approved by D.E.P. and is pending approval from Army Corps of Engineers. As soon as that approval is received, Key Colony Beach Building Department will issue a permit. Chairperson Raspe recommended for Building Official Roussin to advise Mr. Schmitt on his overgrown lawn. Building Official Roussin stated he will go to the property, take pictures, and issue a notice of violation for an overgrown lawn.

2. **790 10th Street – Owner: Welker Betty Pangrace Trustee – City Ordinance Chapter 6, Section 56 – Building and Property Maintenance.** Chairperson Joey Raspe recused himself from the above case and handed over documentation from owner Adam Pangrace to Vice-Chair John Dalton. Building Official Roussin reported Mr. Pangrace having received D.E.P. approval and is awaiting approval from Army Corps of Engineers. Mr. Pangrace has retained the services of LPS Utilities for his seawall. Building Official Roussin reported Mr. Pangrace haven taken the needed steps and now is waiting until Army Corps of Engineers finalizes his permit. The owner is requested an 8-month extension. Building Official Roussin stated an 8-month extension is extreme and recommends a 90-day extension. Code Attorney Malafy recommended for the Code Board to consider the extension at the next hearing and properly notify the property owner.
3. **160 10th Street – Owner: Teresa Ulrich – City Ordinance Section 9-24 Length if rental tenancies and City Ordinance Chapter 6, Section 56 – Building and Property Maintenance.** Gary Furtak recused himself from the above case. Building Official Roussin reported no update on this property. Chairperson Joey Raspe questioned whether the lien was filed. City Clerk Todd stated the lien was prepared by Attorney Wright however there were questions on the specific fines and has not been completed yet. Attorney Wright recommended for City Clerk Todd to send that lien to Code Attorney Malafy for his assistance in determining the fines. Gary Furtak questioned whether he can testify on the current condition of the property. Code Attorney Malafy and City Attorney Wright both expressed concern with Mr. Furtak giving testimony on the property without Mrs. Ulrich being properly notified and urged Mr. Furtak to discuss other complaints with Building Official Roussin privately.

Discussion Items: Gary Furtak questioned when a Property Managers Certification is suspended, are all the other properties they manage notified. City Clerk Todd stated Assistant City Clerk Michelle Farr handles that under her direction. Mr. Furtak requested an update on the Extension and Reduction of Penalties forms. City Attorney Wright does not like those forms and has shared them with Code Attorney Malafy to review and give his legal opinion on. City Attorney Wright stated his tenure as City Attorney is very short and recommends discussing with the next City Attorney. Gary Furtak does not want to wait for the next City Attorney and will be bringing it before the Commission at their next meeting.

Adjournment

The meeting adjourned at 11:00 a.m.

Respectfully submitted,

Saara V. Staten

Saara V. Staten (on behalf of City Clerk Rebecca Todd)
Executive Assistant