

**MINUTES**  
**CITY OF KEY COLONY BEACH**  
**CODE ENFORCEMENT BOARD**

January 19, 2021 9:30 a.m.  
Marble Hall & Virtually via Zoom Conferencing

**Call to Order:** The regular meeting of the Key Colony Beach Code Board was called to order by City Attorney Dirk Smits at 9:30 a.m.

**Swear in Board Members:** City Clerk Todd read the Oath of Office to Joey Raspe, Trudy Troiano, and John Dalton.

**Pledge of Allegiance and Roll Call:** *Present:* Joey Raspe, John Dalton, Cheryl Boehm, Trudy Troiano, and Larry Wagner. *Also Present:* City Clerk Rebecca Todd, Executive Assistant Saara Staten, City Attorney Dirk Smits, Code Board Attorney James Dorl, Chief DiGiovanni, Corporal Buxton, Building Official Gerard Roussin, and Building Inspector Greg Lawton.

Excused: George Lancaster.

Public: 12 (Marble Hall) 20 (Virtual)

**Election of Officers:** City Clerk Todd called for nominations to the Office of Chairperson. John Dalton nominated Joey Raspe as Chairperson; Larry Wagner seconded. City Clerk Todd called Roll Call, Unanimous approval. City Clerk Todd called for nominations to the Office of Vice-Chair. Joey Raspe nominated John Dalton as Vice-Chair; Larry Wagner seconded. City Clerk Todd called Roll Call, Unanimous approval.

**Code Board Duties and Responsibilities:** Code Board Attorney Dorl reported many workshops and meetings held to review Code Board duties and responsibilities. Code Board Attorney Dorl read the Code Board duties and responsibilities. The Code Enforcement board is quasi-judicial. The hearings are judicial in nature, with due process given to everyone who comes before the board. The elements of due process are notice of the charges and the opportunity to appear. An alleged violator is entitled to an impartial hearing. At the beginning of a hearing, if you have a conflict, issue, or ex-parte communication, it needs to be disclosed. It is not usually a good idea to visit a site before the hearing, as it could turn you into a witness when in fact a board member is supposed to be a judge, an impartial determiner of facts. Plus, if you see something not in evidence at the hearing, then you are making a decision based on facts not in evidence. When asking questions at a hearing, you must be careful not to assume the position of a prosecutor. The City is the prosecutor in these matters. If the board finds a violation, any appeal goes to the courts, not to the City Commission. The City Commissioners are not part of the process at all. The standard of proof in these hearings is a preponderance of the evidence, which means it does not have to be beyond a reasonable doubt. The burden of proof is always on the City to prove the violation took place. If you do find a violation, your second responsibility is to determine the punishment. It works best if you separate the two, and not make it all part of one motion. City Attorney Smits strongly recommended first a vote on the violation, then, if found in violation, vote on the penalty. The procedure for the hearing is the City presents its case, the respondent should always be given the opportunity to cross examine the City's witnesses, board members can ask questions at any time. Then a respondent states their case and calls any witnesses they have. The City has the right to cross examine those witnesses. If there are members of the public present, they would go last. It is also a good idea to give the parties an opportunity to give a closing statement. At that point, the board can make their motions. The Code Enforcement board is covered by the Sunshine laws of the State of Florida. It is not appropriate for board members to discuss any code board issues outside of the hearing. You are not the code police, that is up to the code enforcement officers and/or the Police Department. If an individual comes to a board member with a code

violation, that person should be directed to the City Administrator, Building Department, or Police Department.

**Approval of Minutes:** Code Enforcement Board Hearing October 14, 2020.

**MOTION:** Motion made by Larry Wagner, seconded by Cheryl Boehm to approve the minutes of October 14, 2020 Code Enforcement Board Hearing.

**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 Dorl.

**Notice of Ex-parte Communications:** Chairperson Raspe read the notice into the record. Chairperson Raspe and Vice-Chair Dalton reported being cc'd on a few emails that were directed to City staff. The emails were read but not responded to and both members reported it in no way would affect any of their thinking or voting process.

**Cases for Hearing:**

**1. 721 West Ocean Drive – Ocean Front Condominium: City Ordinance Chapter 6, Section 56 – Building and Property Maintenance**

Building Official Roussin reported the Code Board already determined violation for this property and it is before them today to determine whether to impose a penalty. The Code Board choose to give them extensions and the final extension expired in November. The Building Department reported receiving weekly complaints on the property. Representative of Ocean Front Condominium, Attorney David Rogel, gave his opening statement stating although the property was substantially damaged from Hurricane Irma, the property has not been ignored by the Association. The Association has maintained the property as much as is feasibly possible. City Attorney Smits gave his opening statement. Communication continued between the Board, Staff, and Attorney Rogel. The Code Board considered imposing a fine to encourage action on the property. Attorney Rogel recommended the Code Board provide Ocean Front Condominiums with 60-days to come into compliance and then impose a fine if compliance is not achieved. City Attorney Smits requested agreement from the Ocean Front Condominium Association to the proposal stated above. Attorney Rogel confirmed that the Ocean Front Condominium Association is in agreement. Building Official Roussin assured Attorney Rogel that when a building permit for demolition is submitted to the Building Department, it could be issued the same day.

**MOTION:** Motion made by Trudy Troiano, seconded by Cheryl Boehm to impose a fine of \$100 per day, retroactive to the end of the last extension, subject to compliance in 60 days, which if compliance is achieved in 60 days, the fine is waived.

**ON THE MOTION:** Roll Call Vote. Unanimous approval.

**2. 650 10<sup>th</sup> Street – Erika Milesic: City Ordinance Chapter 9, Section 24 – Length of rental tenancies. No rental contract or use shall be for less than seven (7) days in zoning districts R-1 and R-2.**

Building Official Roussin reported on December 17<sup>th</sup> the City received a complaint through the Key Colony Beach Tipline that was investigated by Corporal Buxton. Upon investigation, Corporal Buxton spoke with the renters at the property who produced a contract on their phone that showed the unit was rented from December 14, 2020 – December 18, 2020. Upon receiving that contract, Code Enforcement issued a citation to Owner Erika Milesic, a repeat violation property. Corporal Buxton verified Building

Official Roussin's testimony. Building Official Roussin made all the documents referenced as part of the record. Owner Erika Milesic testified having no idea there was a rental in the unit and never seeing the contract, signing the contract, nor get paid for this rental. Ms. Milesic thought it could have been realtor Lisa from Coldwell Banker who rented it out, however, she did not contact her. Ms. Milesic provided a copy of her standard rental agreement to the Code Board for review and submitted this document into evidence. City Clerk Todd stated her Property Manager on file is her son. City Attorney Smits cross-examined Ms. Milesic. City Attorney Smits cross-examined Corporal Buxton. Building Official Roussin stated the City's recommendation is to suspend the rental license indefinitely for repeat violations and the maximum fine of \$500 per day for the length of the rental tenancy. Building Official Roussin will send out the notification of suspension on the afternoon of January 19<sup>th</sup>. City Attorney Smits moved all the documentation in the Code Board package in to evidence.

**MOTION:** Motion made by Chairperson Raspe, seconded by Cheryl Boehm to find Erika Milesic in violation of City Ordinance Chapter 9, Section 24.

**ON THE MOTION:** Roll Call Vote. Unanimous approval.

**MOTION:** Motion made by Chairperson Raspe, seconded by Cheryl Boehm to fine Erika Milesic \$500 per day for the 4 days of rental violation and the suspension of the rental license indefinitely.

**ON THE MOTION:** Roll Call Vote. Unanimous approval.

**Update on Outstanding Code Violations:**

- 1. 820 10<sup>th</sup> Street – Owner: Bruce Schmitt – City Ordinance Chapter 6, Section 56 – Building and Property Maintenance.** Building Official Roussin reported Mr. Schmitt not being able to attend due to other litigation. Engineer Sean Curwin from Bowen Engineering assured Building Official Roussin that the permit for the restoration of the seawall and dock is almost complete. The Army Corps of Engineers just completed the coral study and the permit possibly can be expected by January 29<sup>th</sup>.
- 2. 790 10<sup>th</sup> Street – Owner: Welker Betty Pangrace Trustee – City Ordinance Chapter 6, Section 56 – Building and Property Maintenance.** Building Official Roussin reported Mr. Pangrace moving forward pending permitting and approval from Army Corps of Engineers.
- 3. 160 10<sup>th</sup> Street – Owner: Teresa Ulrich – City Ordinance Section 9-24 Length if rental tenancies and City Ordinance Chapter 6, Section 56 – Building and Property Maintenance.** Building Official Roussin reported no update on this property. City Clerk Todd stated the lien was prepared by Attorney Wright but has not been filed yet. Code Attorney Dorl will follow up with Attorney Wright. Chairperson Raspe requested an update on this property at the next meeting.

**Discussion Items:** None.

**Citizen Comments:** Owners in Tall Ocean Beach Condominiums at 755 W Ocean Drive, Lin Walsh, Bonnie Letto, Linda Kutsback, Susan Melvin, expressed concern with the current condition of 750 W. Ocean Dr., encouraging the Code Board to take action. Tom DiFransico, 171 8<sup>th</sup> Street, questioned who owns the liens. John DeNeale, 670 10<sup>th</sup> Street, reported receiving many complaints of 750 W. Ocean Dr. while serving as Mayor and encouraged requiring demolition.

**Adjournment**

The meeting adjourned at 11:24 a.m.

Respectfully submitted,

*Saara V. Staten*

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

Executive Assistant