

MINUTES

CITY OF KEY COLONY BEACH CODE ENFORCEMENT BOARD

Wednesday, March 8, 2023 - 9:30 a.m.
City Hall Annex & virtually via Zoom Conferencing

1. Call to Order, Pledge of Allegiance, and Roll Call: *The Key Colony Beach Code Enforcement Board Hearing was called to order by Chair John Dalton at 9:30 am followed by the Pledge of Allegiance and Rollcall. **Present:** Larry Mills, Doug Cuje, Pete Diez, John Dalton. **Also Present:** City Attorney Benninger, Code Officer Goldman, Building Official Leggett, Administrative Assistant Anderson, City Clerk Gransee.*

Public attendance: 16

2. Election of Vice-Chair: *City Clerk Gransee administered the Oath of Office to Board Members Doug Cuje and Pete Diez.*

City Clerk Gransee called for nominations for Vice-Chair. Doug Cuje nominated Larry Mills for Vice-Chair. There were no other nominations. City Clerk Gransee asked for a show of hands in support for Larry Mills. All Board members raised their hand. Larry Mills was elected as the new Vice-Chair.

3. Approval of Minutes

a. Code Enforcement Board Hearing Minutes January 11th, 2023: *The Board did not request any changes.*

MOTION: *Motion made by Pete Diez, seconded by Doug Cuje, to approve the minutes.*

DISCUSSION: *None.*

ON THE MOTION: *Rollcall vote. Unanimous approval.*

b. Code Enforcement Board Hearing Minutes, February 8th, 2023: *The Board did not request any changes.*

MOTION: *Motion made by Larry Mills, seconded by Doug Cuje, to approve the minutes.*

DISCUSSION: *None.*

ON THE MOTION: *Rollcall vote. Unanimous approval.*

4. Swearing in of Witnesses to Testify: *City Attorney Benninger administered the Oath of Witness to all planning on testifying. Mr. Patrick Power was sworn in via Zoom Mr. Dick Harper was not sworn in as a witness.*

5. Notice of Ex-Parte Communication: *Code Board Attorney Dorl informed on receiving a call from an unknown person which he referred to City Hall.*

6. A. Property Address: 3 7th Street, Owners: Ramon Rodriguez & Maria Servia – Violation: Vacation Rental without a License; City of Key Colony Beach Code of Ordinances Chapter 9, Sec. 9-22, 9-28.

Code Officer Goldman presented Christina Rodriguez to the Board as the representative for the Respondents and explained the code procedures and details of the case.

Mrs. Christina Rodriguez testified that a violation had occurred and admitted to renting on a short-term basis without a valid license.

City Attorney Benninger asked for an admission of violation by motion from the Board.

MOTION: Motion made by Doug Cuje, seconded by John Dalton, for the admission of guilt.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

City Attorney Benninger opened the floor to Mrs. Christina Rodriguez. Mrs. Christina Rodriguez presented testimony to the Board on behalf of the Respondents followed by questions from the Board. Code Officer Goldman explained statutes, a cap on fines, and cost of prosecution to the Board. Further testimony followed by Mrs. Christina Rodriguez and City Attorney Benninger giving information on license renewal regulations. City Attorney Benninger gave the assessment of fines as \$2,048.00. The Board discussed the assessment of fines, days of violations, with further testimony by Mrs. Rodriguez on days of rentals and rental fees. Code Officer Goldman gave further details on the case.

MOTION: Motion made by Pete Diez to assess a \$250.00 total fine for the violation. Larry Mills seconded the motion.

DISCUSSION: Discussion followed on the lowered assessment of fine.

ON THE MOTION: Rollcall vote. Larry Mills – yes. Doug Cuje – no. Pete Diez – yes. John Dalton – yes. The motion passed.

City Attorney Benninger informed Chair Dalton on the prepared Code Board order ready for his signature. Discussion followed on the assessment of the fine. City Clerk Gransee confirmed the record reflecting a total fine of \$250.00.

B. (E) Property Address: 438-436 E. Ocean Drive, Owner: Louise Tuttle – Violation: Rental without a License; City of Key Colony Beach Code of Ordinances Chapter 9 et. al., Sec. 9-20, 9-28

City Attorney Benninger informed that original agenda items 6 b. and c. were to be delayed until later that day due to the Respondents being stuck in traffic.

City Attorney Benninger addressed the Board and introduced the Respondent and her legal representative to the Board. City Attorney Benninger informed that the Respondent agreed to enter into a stipulated agreement that a violation of renting without a license had occurred with an assessed statutory irreparable fine in the amount of \$5,000.00. City Attorney Benninger explained that the Respondent and her legal council would have the opportunity to present testimony for mitigation purposes. City Attorney Benninger presented a cost of prosecution in the amount of \$2,048.00.

Mr. Malafy, the Respondent's attorney, called Louise Tuttle to testify. Mitigation testimony followed on the case including history of ownership of the property, nature of the violation, nature of the rental, and rental fees. Exhibit A was introduced for the business tax license for review for the Board. City Attorney Benninger had no objection.

Further testimony followed by Louise Tuttle.

Exhibit B was introduced.

City Attorney Benninger confirmed intention of admission of a violation by the respondent. Mr. Malafy confirmed and explained intentions of testimony. Further testimony followed by Mrs. Louise Tuttle.

The Board followed up with Mrs. Tuttle on her testimony.

Code Officer Goldman gave further information explaining the case to the Board. The Board followed up with Mr. Malafy. Testimony by Louise Tuttle continued.

City Attorney Benninger asked the Respondent on her admission of a violation and her willingness to enter into a stipulation which was admitted by Louise Tuttle. City Attorney Benninger asked the Board to make the finding.

MOTION: Motion made by Pete Diez to accept the admission of guilt. Larry Mills seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

City Attorney Benninger clarified the cost of prosecution in the amount of \$2,048.00.

MOTION: Motion made by Doug Cuje to accept the respondents admission and leave the fine at \$5,000.00 plus \$2,048.00 cost of prosecution. John Dalton seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Doug Cuje – yes. Pete Diez – yes. Larry Mills – no. John Dalton – yes. The motion passed three (3) to one (1).

City Attorney Benninger presented the stipulated final order to the Chair for execution.

Chair Dalton called for a recess. The hearing resumed at 10:38 am.

C. (D) Property Address: 150 9th Street, Owner: Patrick & Sharon Power – Violation: Vacation Rental without a License; City of Key Colony Beach Code of Ordinances Chapter 9, Sec. 9-22, 9-28

Jim Dorl explained stipulated agreement procedures to the Board.

City Attorney Benninger called agenda item 6 D as the next case. City Attorney Benninger stated his understanding that the Respondents wish to enter into a stipulated agreement admitting to a violation. City Attorney Benninger continued stating the City's willingness to agree to a fine capped at \$5,000.00 plus the cost of prosecution in the amount of \$2,048.00.

Mr. Power expressed agreement in making an error but indicated no knowledge on the assessment of a cost of prosecution. Mr. Power continued addressing the Board on the violation. Upon questioning by City Attorney Benninger, Mr. Power admitted to the violation but asked for a consideration on the fine.

Code Board Attorney Dorl clarified that cases are independent of each other.

The Respondent gave further testimony to the Board.

City Attorney Benninger explained the terms on the stipulation of violation not to exceed \$5,000.00 in addition to \$2,048.00 for the cost of prosecution. Discussion followed on the presented stipulation agreement including questions on precedence and the cost of prosecution.

City Attorney Benninger asked the Board to table the matter until April and asked for a motion to table.

MOTION: Motion made by Doug Cuje to table the matter. John Dalton seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Pete Diez – no. Larry Mills – no. Doug Cuje – yes. John Dalton – yes. The motion failed.

Further testimony followed by the Respondent. Code Board Attorney Jim Dorl explained procedures to the Board. Chair Dalton spoke on the matter of tabling to the respondent.

The Respondent stated willingness to accept the stipulation agreement. A brief discussion followed.

City Attorney Benninger explained Code Board Hearing procedures to the Board and options on how to proceed with the case. Further testimony followed by the respondent.

Code Board Attorney Dorl gave further advise to the Board and explained procedures to the Respondent.

The Respondent stated acceptance of the cost of prosecution in the amount of \$2,048.00 and asked for a consideration on the assessment of fines.

MOTION: Motion made by Pete Diez to accept the admission of guilt. Doug Cuje seconded the motion.
DISCUSSION: City Attorney Benninger explained the imposition of a fine by the Board plus the cost of prosecution.
ON THE MOTION: Rollcall vote. Unanimous approval.

City Attorney Benninger invited Mr. Power to present testimony to the Board for leniency, followed by questions from the Board to Mr. Power and Mr. Goldman. Further discussion followed on the assessment of fines.

MOTION: Motion made by Larry Mills to only assess the court fees and waive the fines. Pete Diez seconded the motion.
DISCUSSION: None.
ON THE MOTION: Rollcall vote. Doug Cuje – no. Pete Diez – yes. Larry Mills – yes. John Dalton – no. The motion failed.

The Board continued discussion on the assessment on fines.

MOTION: Motion made by Doug Cuje to table the matter. John Dalton seconded the motion.
DISCUSSION: Pete Diez expressed his thoughts on resolving the matter today.
ON THE MOTION: Rollcall vote. Doug Cuje – yes. Pete Diez – no. Larry Mills – no. John Dalton – yes. The motion failed.

MOTION: Motion made by Larry Mills to assess a fine in the amount of \$250.00 plus the court costs. Pete Diez seconded the motion.
DISCUSSION: Larry Mills expressed his thoughts on the violation having been a simple mistake.
ON THE MOTION: Rollcall vote. Pete Diez – yes. Larry Mills – yes. Doug Cuje – no. John Dalton – no. The motion failed.

MOTION: Motion made by Doug Cuje to assess a fine in the amount of \$3,000.00 plus the cost of prosecution in the amount of \$2,048.00. John Dalton seconded the motion.
DISCUSSION: Pete Diez expressed his thoughts on the fine being too high.
ON THE MOTION: Rollcall vote. Larry Mills – no. Doug Cuje – yes. Pete Diez – no. John Dalton – yes. The motion failed.

Chair Dalton called for a 10-minute recess.

Chair Dalton called the meeting back to order at 11:27 pm. The Board Members stated that no Ex-parte communication took place.

C. (D) Property Address: 150 9th Street, Owner: Patrick & Sharon Power – Violation: Vacation Rental without a License; City of Key Colony Beach Code of Ordinances Chapter 9, Sec. 9-22, 9-28

The Hearing continued on the matter.

Code Board Attorney Dorl reminded that on no motions pending and advised for the Board to resolve the matter. The Board continued discussion on the assessment of costs. The Respondent stated technical difficulties with his camera on zoom.

MOTION: Motion made by Doug Cuje to table the matter until the next month. John Dalton seconded the motion.
DISCUSSION: The Board discussed the possibility of having a 5th Code Board member in April. Code Board

Attorney Dorl advised to keep working on the matter. Discussion followed on whether to withdraw the motion.
ON THE DISCUSSION: Doug Cuje withdraw the motion.

MOTION: Motion made by Pete Diez to set the limit of the fine inclusive of court cost to \$5,000.00.

Code Board Attorney Dorl clarified the fine. Discussion followed on the assessment of fine.

MOTION: Motion made by Pete Diez to set a \$1,000.00 fine plus the cost of prosecution in the amount of \$2,048.00. Larry Mills seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Pete Diez – yes. Larry Mills – yes. Doug Cuje – no. John Dalton – no. The motion failed.

The Board continued discussion.

MOTION: Motion made by Pete Diez to table the matter until next month. John Dalton seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Larry Mills – no. Doug Cuje – no. Pete Diez – yes. John Dalton – yes. The motion failed.

The Board continued discussion on the assessment of a fine. Mr. Power gave additional testimony to the Board. Code Board Attorney gave further advice to the Board. The Board continued discussion. City Attorney Benninger spoke to the Board on the case and the assessment of a fine.

Code Board Attorney Dorl explained the protocol of procedures to Chair Dalton regarding the respondents ability to offer a settlement amount. Further discussion followed.

Mr. Power gave further testimony on his acceptance of a fine.

City Clerk Gransee reminded of the upcoming recess.

Code Board Attorney Dorl advised on a request for continuance for the Harper case. Code Officer Goldman asked to put items on the record relative to the continuance. City Attorney Benninger asked for Mr. Harper to agree to abide by the City's pending stop-work order. Mr. Tobin stated on the record that he and his client agreed. City Clerk Gransee then asked for agreement from the Board and the Attorneys for a continuance until April. All Parties stated for the record that they were in agreement.

D. & E (F & G)) Property Address: 680 11th Street, Owner: Richard B. Harper – Violation: Construction Activities without a Permit; City of Key Colony Beach Code of Ordinances Sec. 6-6 (1)(b)(d) & Violation: New Construction: Required Performance and Permit Expiration; City of Key Colony Beach Code of Ordinances Sec6-7.: Continued until the next Code Board Hearing in April.

Chair Dalton called for lunch recess.

The hearing continued at 1:00 pm.

Chair Dalton called the hearing to back to order at 1:00 pm.

The Board confirmed that no Ex-parte communications took place.

City Clerk Gransee swore in Patrick Power as a witness.

City Attorney Benninger spoke to the Board on the case at hand and recalled prior actions taken. The Board continued their discussion on an assessment of a fine. Code Officer Goldman offered further testimony on the Code Enforcement process. The Board continued its discussion.

MOTION: Motion made by Pete Diez to assess a fine in the amount of \$1,250.00 plus the cost of prosecution in the amount of \$2,048.00. Larry Mills seconded the motion.

DISCUSSION: The Board continued discussion on the assessment of fines.

ON THE MOTION: Rollcall vote. Doug Cuje – no. Pete Diez – yes. Larry Mills – yes. John Dalton – no. The motion failed.

The Board continued discussion on finding agreement on an assessment of fines.

The Hearing had to be called for a brief recess due to technical difficulties.

The meeting was called back to order by Chair Dalton.

MOTION: Motion made by Larry Mills to assess a fine in the amount of \$1,500.00 plus the cost of prosecution in the amount of \$2,048.00. Pete Diez seconded the motion.

DISCUSSION: The Board continued their discussion on reaching an agreement.

ON THE MOTION: Rollcall vote. Doug Cuje – no. Pete Diez – yes. Larry Mills – yes. John Dalton – no. The motion failed.

Code Board Attorney Dorl advised the Board on how to go forward.

MOTION: Motion made by Doug Cuje to table the matter on 150 9th Street until the next month. John Dalton seconded the motion.

DISCUSSION: Mr. Mills gave his views on tabling the matter

ON THE MOTION: Rollcall vote. Larry Mills – no. Doug Cuje – yes. Pete Diez – no. John Dalton – yes. The motion failed.

The Board continued discussion on tabling the matter and the ability to come to a decision, as well as the assessment of a fine.

MOTION: Motion made by Doug Cuje to table the matter until the remainder cases have been heard. Pete Diez seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

F. Property Address: 34 Sadowski Causeway, Owners: Raytel & Melissa Brito – Violation: Vacation Rental without a License; City of Key Colony Beach Code of Ordinances Chapter 9, Sec. 9-22, 9-28.

AND

G. Property Address: 33 Sadowski Causeway, Owner: Rafmar R. Brito – Violation: Vacation Rental without a License; City of Key Colony Beach Code of Ordinances Chapter 9, Sec. 9-22, 9-28

City Attorney Benninger addressed the Board on both matters and explained the stipulation agreement to be at a fine of \$5,000.00 plus the cost of prosecution at \$1,853.00 per case. Code Officer Goldman provided detailed testimony concerning the violation and proceeding. City Attorney Benninger asked for the Respondents to enter

into the stipulated agreement with the city and explained how to move forward. The Respondents, Melissa Brito and Rafmar Brito, gave their admission.

MOTION: Motion made by Doug Cuje to accept the admission of guilt with a stipulated agreement of a fine of \$5,000.00 each plus the cost of prosecution in the amount of \$1,853.00 each for the properties at 33 and 34 Sadowski Causeway. Pete Diez seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

The respondent, Melissa Brito, gave testimony to the Board on the violation. The Board followed up with questions to the Respondent and the Code Officer.

MOTION: Motion made by Doug Cuje to assess a fine of \$2,500.00 each plus the cost of prosecution of \$1,853.00. John Dalton seconded the motion.

DISCUSSION: Further discussion on an assessment of fines continued.

ON THE MOTION: Rollcall vote. Larry Mills – no. Doug Cuje – yes. Pete Diez – no. John Dalton – yes. The motion failed.

MOTION: Motion made by Pete Diez to assess a fine in the amount of \$1,853.00 plus the cost of prosecution in the amount of \$1,853.00 for each property. John Dalton seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Doug Cuje – no. Pete Diez – yes. Larry Mills – no. John Dalton – yes. The motion failed.

City Clerk Gransee reminded of decorum for the respondents.

The Board continued discussion on the assessment of fines.

MOTION: Motion made by Pete Diez to assess a fine in the amount of \$1,853.00 plus the cost of prosecution in the amount of \$1,853.00 for each property. Doug Cuje seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Doug Cuje – yes. Pete Diez – yes. Larry Mills – no. John Dalton – yes. The motion passed three (3) to one (1).

City Attorney Benninger presented the stipulated agreements for 33 and 34 Sadowski Causeway for the Code Board Chair to sign. The documents were then executed.

H. Agenda addition: 351 10th Street, Owners: Manual Ramos & Mellissa Pardo

City Attorney Benninger recalled the matter from the past Code Board Hearing. City Clerk Gransee asked for a motion from the Board to add the item to the agenda.

MOTION: Motion made by Pete Diez to approve the agenda addition of 351 10th Street. John Dalton seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

City Attorney Benninger spoke to the Board on the agenda item and the assessment of fines that were made. City Attorney Benninger explained that the previous stipulated agreement was erroneous in the assessment of fines

and required correction. City Attorney Benninger asked the Board to approve an assessment of fines in the amount of \$2,745.85 plus the cost of prosecution in the amount of \$2,254.14 for a total compromised fine of \$5,000.00. City Attorney Benninger stated that an amended stipulated final order had been prepared for its consideration. Code Officer Goldman gave further details on the order to the Board. The Respondent's counsel confirmed the Parties' Stipulated Agreement. Code Officer Goldman asked the Board to approve the stipulated agreement as presented.

MOTION: Motion made by Pete Diez to approve the amended agreement for the assessment of a fine in the amount of \$2,745.85 plus the cost of prosecution in the amount of \$2,254.14.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

CONTINUANCE OF AGENDA ITEM: C. (D) Property Address: 150 9th Street, Owner: Patrick & Sharon Power – Violation: Vacation Rental without a License; City of Key Colony Beach Code of Ordinances Chapter 9, Sec. 9-22, 9-28

Chair Dalton called the case back for consideration. Code Board Attorney Dorl advised the Board on going forward. Discussion followed by the Board. The Respondent presented additional testimony for consideration by the Board.

MOTION: Motion made by Pete Diez to assess a fine in the amount of \$1,500.00 plus the cost of prosecution in the amount of \$2,048.00. Larry Mills seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Doug Cuje – no. Pete Diez – yes. Larry Mills – yes. John Dalton – no. The motion failed.

Discussion continued.

MOTION: Motion made by Doug Cuje to assess a fine in the amount of \$2,048.00 plus the cost of prosecution in the amount of \$2,048.00.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Doug Cuje – yes. Pete Diez – yes. Larry Mills – no. John Dalton – yes. The motion passed three (3) to one (1).

The stipulated final order was presented to the Chair for further execution.

The Respondent then addressed the Board concerning its final decision. Code Board Attorney Dorl promptly notified the Respondent that the hearing required a certain level of decorum and further explained his appellate rights.

7. Updates: None.

8. Discussion Items: None.

9. Adjournment: The meeting adjourned at 2:24 pm.

Respectfully submitted,
Silvia Gransee

City Clerk

ADOPTED: *April 20, 2023*

Silvia Gransee

City Clerk