

City of Clearwater

*Main Library - Council Chambers
100 N. Osceola Avenue
Clearwater, FL 33755*



Meeting Minutes

Wednesday, September 22, 2021

1:30 PM

Main Library - Council Chambers

Municipal Code Enforcement Board

Roll Call

Present 6 - Chair Nicole Bray, Vice Chair KerryAnn Rainey, Board Member David Farrar, Board Member Peter Kohut – departed at 3 p.m., Board Member Lina Teixeira, and Board Member Greg Brown

Also Present - Mariana Gallastegui – Attorney for the Board, Matthew Mytych – Assistant City Attorney, Nicole Sprague – Secretary to the Board,

DRAFT**1. Call To Order**

The Chair called the meeting to order at 1:30 p.m. at the Main Library, followed by the Pledge of Allegiance.

To provide continuity for research, items are in agenda order although not necessarily discussed in that order.

The Chair outlined procedures and stated any aggrieved party may appeal a final administrative order of the Municipal Code Enforcement Board to the Circuit Court of Pinellas County within thirty days of the execution of the order. Florida Statute 286.0105 requires any party appealing a decision of this Board to have a record of the proceedings.

2. Approval of Minutes

- 2.1** Approve the minutes of the August 25, 2021 Municipal Code Enforcement Board as submitted in written summation.

Member Teixeira moved to approve minutes of the August 25, 2021 Municipal Code Enforcement Board meeting as submitted in written summation. The motion was duly seconded and carried unanimously.

3. Citizens to be Heard Regarding Items Not on the Agenda

David Ballard Gettis Jr. expressed concern that updates to local comp plans re the water supply and taxation of water delivery to residents adhere to Florida Statute and previous Interlocal agreement.

Robert Spartz requested additional time to comply with the Board's orders for 1651 Misty Plateau Trail, Cases 79-21 and 85-21. These cases were not on the agenda; the Board was unable to act.

4. New Business Items

- 4.1** Continued from August 25, 2021, Continue to October 27, 2021 - Case 95-21 - Find respondent(s) Allen Dodd at 3013 Sarah Dr. in violation of Code for Permits; and issue an order with the compliance deadline and fine if compliance is not met. (Swinton)

Case 95-21 was continued to October 27, 2021.

- 4.2** Continued from August 25, 2021 - Case 102-21 - Find respondent(s) Thomas & Dorothy Jessup at 1770 Drew St. in violation of Code for Sign Maintenance; and issue an order with the compliance deadline and fine if compliance is not met. (Knight)

Case 102-21 was continued to October 27, 2021.

- 4.3** Case 108-21 - Find respondent(s) Dennis Hill at 204 Pennsylvania Ave. in violation of Code for Hauling Trailer, Exterior Storage, Inoperative Vehicle, and Lot Clearing; and issue an order with the compliance deadline and fine if compliance is not met. (Dixon)

Respondent Denis Hill said he was a general contractor. He denied the violations.

Inspector Gregory Dixon provided a PowerPoint presentation. July 1, August 3, and September 20, 2021 property photos showed violations for exterior storage of construction materials, junk, rubble, a hauling trailer in the front setback, an unscreened hauling trailer in the backyard, an inoperative vehicle, a lot clearing violation for accumulation and placement of nuisances on the property including items not for outdoor use such as a washing machine. The unfenced backyard is visible from the alley and businesses to the south.

Mr. Hill said exterior items on the property belonged to a vagrant; he was working to evict the illegal tenant who did not pay rent. He said the person kept dragging items onto his property. Mr. Hill admitted to the exterior storage, hauling trailers, and overgrown brush. He said he had done a lot of cleanup and will work with the inspector.

Member Farrar moved to find the Respondent(s) in violation of the City of Clearwater Code as referred to in the affidavit in this case. The motion was duly seconded and carried unanimously.

Inspector Dixon recommended compliance for the Lot Clearing violation within 15 days of the Order or the City will resolve the violation and compliance for the Hauling Trailer, Exterior Storage, and Inoperative Vehicle violations by October 22, 2021 or a fine of \$150 per day per violation be imposed.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to enter an order requiring the Respondent to correct the violation for the Lot Clearing within 15 days of the Order or the City will resolve and to correct the violations for the Hauling Trailer, Exterior Storage, and Inoperative Vehicle on or before October 22, 2021. If the Respondent does not comply within the time specified, the Board may order a fine of \$150 per day per Hauling Trailer, Exterior Storage, and Inoperative Vehicle violation for each day each of those

violations continue to exist. If fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. The motion was duly seconded and carried unanimously.

Attorney Mytych said similar Code violations at the property predated Mr. Hill's ownership.

Mr. Hill said he did not own the property when the previous violations were cited. He said it took 3 years to straighten out the estate before he could assume ownership. He said he needed more time to comply.

- 4.4 Case 109-21 - Find respondent(s) Mohamed Al-Lahham at 31 Windward Isle in violation of Code for Short Term Rental and Residential Rental Business Tax Receipt; and issue an order with the compliance deadline and fine if compliance is not met. (Phillips)**

No one was present to represent the Respondent.

Inspector Julie Phillips said compliance had been met and requested a declaration of violation.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to find the Respondent was in violation of the City of Clearwater Code as referred to in the affidavit in this case, the violations were corrected prior to today's hearing, and to enter an order that no fine be imposed against the Respondent. If the Respondent repeats the violations, the Board may order a fine of up to \$500 for each day each violation continues to exist. The motion was duly seconded and carried unanimously.

- 4.5 Case 110-21 - Find respondent(s) Darnell Macapinlac at 2040 N Highland Ave. in violation of Code for Short Term Rental and Residential Rental Business Tax Receipt; and issue an order with the compliance deadline and fine if compliance is not met. (Phillips)**

No one was present to represent the Respondent.

Inspector Julie Phillips said compliance had been met and requested a declaration of violation.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to find the Respondent was in violation of the City of Clearwater Code as referred to in the affidavit in this case, the violations were corrected prior to today's hearing, and to enter an order that no fine be imposed against the Respondent. If the

Respondent repeats the violations, the Board may order a fine of up to \$500 for each day each violation continues to exist. The motion was duly seconded and carried unanimously.

- 4.6** Case 111-21 - Find respondent(s) 1201-1215 Drew Street LLC at 1215 Drew St. in repeat violation of Code for Exterior Storage; and issue an order that a daily fine be imposed for each day the repeat violation(s) existed. (Kasman)

Jim Uhrich, Representative for the Respondent, denied the repeat violation. He said 2 desks and chairs had to be in the courtyard and boxes had to be quarantined outside to comply with CDC (Centers for Disease Control and Prevention) guidelines. He said the property was last cited during Hurricane Irma. He said recent exterior storage was due to Hurricane Elsa and COVID-19 restrictions; the violation was out of his control and not his fault.

Inspector Daniel Kasman provided a PowerPoint presentation on the repeat violation for Exterior Storage. On February 28, 2018, the MCEB issued a Declaration of Violation for Case 18-18, finding Respondent, 1201-1215 Drew Street LLC had been in violation of Code for exterior surfaces and outdoor storage and that the conditions were corrected prior to the hearing.

Inspector Kasman said following a citizen complaint, he visited the property on July 2, 2021 and in the inner courtyard observed a large amount of furniture, workout equipment, boxes, chairs, and other items exposed to the elements. By July 27, 2021, the owner had cleared the courtyard. July 2, 6, 12, 15, 20, & 22, 2021 property photos showed the exterior storage violation.

Mr. Ulrich said some items in the courtyard after the hurricane were there to help the community. He said some tenants were unable to pay rent during the pandemic and one tenant's inventory was repossessed.

Inspector Kasman recommended a fine be imposed at \$250 per day for 5 days, July 6, 12, 15, 20, and 22, 2021 when the repeat violation for Exterior Storage existed, for a total of \$1,250.

Member Farrar moved to find the Respondent(s) in violation of the City of Clearwater Code as referred to in the affidavit in this case and has committed a repeat violation. The motion was duly seconded and carried unanimously.

Member Teixeira moved to enter an order that a fine of \$250 per day be imposed for the 5 days the repeat violation existed for a total fine of \$1,250 payable within 30 days of posting of Order. If fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. If the Respondent repeats the violation, the Board may order a fine of

up to \$500 for each day each violation continues to exist. The motion was duly seconded and carried unanimously.

- 4.7** Case 112-21 - Find respondent(s) Tonie Burgos at 1487 Drew St. in violation of Code for Landscaping; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

Property owner Tonie Burgos admitted to the violation.

Member Farrar moved to find the Respondent(s) in violation of the City of Clearwater Code as referred to in the affidavit in this case. The motion was duly seconded and carried unanimously.

Inspector Daniel Kasman presented photos of the violation. He recommended compliance by October 22, 2021 or a fine of \$150 per day be imposed for the Landscaping violation.

Ms. Burgos said she was from Massachusetts where property owners can legally cover their yards with rock and gravel; she had spent a lot of money on those materials. She said she hired someone last month to remove the gravel. She noted one of Inspector Kasman's photos showed weeds growing where gravel had been removed. She said the person she hired could not work for a month while sick; he returned to work today.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to enter an order requiring the Respondent to correct the violation on or before October 22, 2021. If the Respondent does not comply within the time specified, the Board may order a fine of \$150 per day for each day the violation continues to exist. If fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. The motion was duly seconded and carried unanimously.

- 4.8** WITHDRAWN - Case 113-21 - Find respondent(s) Frank & Emily Robson at 1226 Grove St. in violation of Code for Delinquent Business Tax Receipt; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

Case 113-21 was withdrawn.

- 4.9** WITHDRAWN - Case 114-21 - Find respondent(s) 1148 Land Trust at 1148 Cleveland St. in violation of Code for Delinquent Business Tax Receipt; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

Case 114-21 was withdrawn.

- 4.10** Case 115-21 - Find respondent(s) JME Trust at 1423 Park St #A in violation of Code for Residential Rental Business Tax Receipt; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

No one was present to represent the Respondent.

Member Raney moved to find the Respondent(s) in violation of the City of Clearwater Code as referred to in the affidavit in this case. The motion was duly seconded and carried unanimously.

Inspector Daniel Kasman recommended compliance by October 22, 2021 or a fine of \$150 per day be imposed for the Residential Rental Business Tax Receipt violation.

Attorney Mytych submitted composite exhibits.

Member Teixeira moved to enter an order requiring the Respondent to correct the violation on or before October 22, 2021. If the Respondent does not comply within the time specified, the Board may order a fine of \$150 per day for each day the violation continues to exist. If fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. The motion was duly seconded and carried unanimously.

- 4.11** WITHDRAWN - Case 117-21 - Find respondent(s) Laura Christian at 215 Waverly Way in violation of Code for Residential Rental Business Tax Receipt; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

Case 117-21 was withdrawn.

- 4.12** Case 118-21 - Find respondent(s) Pierce Waverly LLC at 1313 Pierce St. in violation of Code for Roof Maintenance and Exterior Surfaces; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

Respondent Steve Thomas admitted to the Exterior Surfaces violation.

Member Brown moved to find the Respondent(s) in violation of the City of Clearwater Code as referred to in the affidavit in this case. The motion was duly seconded and carried unanimously.

Inspector Daniel Kasman said compliance had been met for Roof Maintenance and requested a declaration of violation. He recommended compliance for the Exterior Surfaces by October 22, 2021 or a fine of \$150 per day be imposed.

Mr. Thomas requested additional time to comply for the exterior surfaces at this property. He said he also owned the abutting property; both needed new

facia. He said recent rains had delayed repairs.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to enter an order requiring the Respondent to correct the Exterior Surfaces violation on or before November 17, 2021. If the Respondent does not comply within the time specified, the Board may order a fine of \$150 per day for each day the violation continues to exist. If fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. The motion was duly seconded and carried unanimously.

Member Rainey moved to find the Respondent was in violation of the City of Clearwater Code as referred to in the affidavit in this case for Roof Maintenance, the violation was corrected prior to today's hearing, and to enter an order that no fine be imposed against the Respondent. If the Respondent repeats the violation, the Board may order a fine of up to \$500 for each day the violation continues to exist. The motion was duly seconded and carried unanimously.

- 4.13** Case 119-21 - Find respondent(s) Florida First Properties Inc Tre at 1468 Cleveland St. in violation of Code for Permitted Uses - Halfway House; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

Property owner John Linehan denied the violation.

Inspector Daniel Kasman provided a PowerPoint presentation. Following a garage fire, the Fire Inspector reported a sober home operating at this location. The subject property is in the Downtown District where Halfway Houses are not permitted. He reviewed Code definitions; the current use is consistent with the Halfway House definition and does not conform with Community Residential Home requirements.

Inspector Kasman said property utilities were listed under "A New Direction for Men and Women." The website for the local organization, headquartered in St. Petersburg, listed Pamela Dixon as Executive Director and stated it was a transitional living facility that housed individuals with substance abuse and mental health issues. On June 23, 2021 Ms. Dixon applied for a Halfway House BTR (Business Tax Receipt). Staff did not approve the BTR based on the property's zoning restrictions. The property owner has a Residential Rental BTR.

Mr. Linehan said Ms. Dixon, was unable to be present. He said Ms. Dixon rented several houses and ran transitional living spaces. He said he would evict her and the residents if the Board so ordered. He said it would violate the law if he evicted them as the residents were protected individuals under ADA (Americans with Disabilities Act). He said according to court cases,

including the Supreme Court, people in transition were considered handicapped and had to be treated the same as a family unit with 7 children.

In response to a question, Mr. Linehan said if Ms. Dixon could not obtain a BTR, he would find her a location where the use is permitted. He said the residents had not caused any problems or complaints. He said the zoning restrictions were illegal and he wanted to challenge them. He said the home was run like a family and he could not be required to obtain a State license for the home. He said Ms. Dixon had applied for a BTR for a Halfway House at the Board's direction.

In response to questions from Attorney Mytych, Mr. Linehan said he did not know if any inside doors at the subject property had padlocks or were keyed. He said he installed locks on inside doors in some of his houses. He said he did not have details on the turnover rate for residents; they were not incarcerated people.

Attorney Mytych reviewed the Code, stating the facility did not meet HUD (Department of Housing & Urban Development) established criteria for housekeeping units. A Google search indicated the organization provided sobriety services at Halfway Houses.

Inspector Kasman recommended compliance by October 22, 2021 or a fine of \$150 per day be imposed for the Halfway House violation. He said the City would agree to extending the compliance date to provide time to relocate residents.

Member Farrar moved to find the Respondent(s) in violation of the City of Clearwater Code as referred to in the affidavit in this case. The motion was duly seconded. Members Rainey, Farrar, Teixeira, Brown and Chair Bray voted "Aye." Member Kohut was absent. Motion carried.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to enter an order requiring the Respondent to correct the violation on or before December 1, 2021. If the Respondent does not comply within the time specified, the Board may order a fine of \$150 per day for each day the violation continues to exist. If fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. The motion was duly seconded. Members Rainey, Farrar, Teixeira, Brown and Chair Bray voted "Aye." Member Kohut was absent. Motion carried.

- 4.14** Case 120-21 - Find respondent(s) AML Rental Property LLC at 618 S Crest Ave. in violation of Code for Residential Grass Parking; and issue an order with the compliance deadline and fine if compliance is not met. (Kasman)

No one was present to represent the Respondent.

Inspector Daniel Kasman said compliance had been met and requested a declaration of violation.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to find the Respondent was in violation of the City of Clearwater Code as referred to in the affidavit in this case, the violation was corrected prior to today's hearing, and to enter an order that no fine be imposed against the Respondent. If the Respondent repeats the violation, the Board may order a fine of up to \$500 for each day the violation continues to exist. The motion was duly seconded. Members Rainey, Farrar, Teixeira, Brown and Chair Bray voted "Aye." Member Kohut was absent. Motion carried.

- 4.15** Continue to October 27, 2021 - Case 130-21 - Find respondent(s) Michele Clark at 1149 LaSalle St. in violation of Code for Permits; and issue an order with the compliance deadline and fine if compliance is not met. (Cantrell)

Case 130-21 was continued to October 27, 2021.

5. Unfinished Business

5.1 Accept the Affidavits of Compliance as listed.

- 5.1.1 Case 62-17 Affidavit of Compliance
Jose L Antonio
1587 Scranton Ave.
Exterior Surfaces - Touray
- 5.1.2 Case 71-20 Affidavit of Compliance
James and Dana Benoist
705 S Glenwood Ave.
Portable Storage Unit - Kasman
- 5.1.3 Case 90-20 Affidavit of Compliance
1447 E Druid Land Trust
1447 Druid Rd.
Permits - Espinosa
- 5.1.4 Case 68-21 Affidavit of Compliance
Dunkin Donuts PC #300740
600 S Missouri
Sign Maintenance - Knight

Member Brown moved to accept the Affidavits of Compliance for Cases 62-17, 71-20 and 90-20. The motion was duly seconded. Members Rainey, Farrar, Teixeira, Brown and Chair Bray voted “Aye.” Member Kohut was absent. Motion carried.

- 5.2** WITHDRAWN - Case 68-21 - Accept the Affidavit(s) of Non-Compliance for respondent(s) Ruth B Marks Tre c/o Dunkin Brands at 600 S Missouri Ave. for Sign Maintenance. (Knight)

Case 68-21 was withdrawn.

- 5.3** Case 74-21 - Accept the Affidavit(s) of Non-Compliance for respondent(s) Timothy Hall at 1265 Park St. for Residential Rental Business Tax Receipt. (Kasman)

Case 74-21 was withdrawn.

- 5.4** Case 75-21 - Accept the Affidavit(s) of Non-Compliance for respondent(s) Attila Megyeri at 602 Phoenix Ave. for Exterior Surfaces. (Kasman)

No one was present to represent the Respondent.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to accept the Affidavit of Non-Compliance and issue an order that states If fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. The motion was duly seconded. Members Rainey, Farrar, Teixeira, Brown and Chair Bray voted “Aye.” Member Kohut was absent. Motion carried.

6. Other Board Action: None

7. Nuisance Abatement Lien Filings

- 7.1** Case 129-21 (PNU2021-00898, PNU2021-00897, PNU2021-00896) - Accept the Nuisance Abatement Lien for respondent(s) Deborah M McClung Blence at 1862 Francis Dr. for Lot Clearing, Inoperative Vehicle, and Hauling Trailer; and issue an order with the compliance deadline and authorize the City to mitigate the violation if compliance is not met. (Odegaard)

No one was present to represent the Respondent.

Inspector Ryan Odegaard provided a PowerPoint presentation for the 3 violations for Lot Clearing, Inoperative Vehicle, and Hauling Trailer. Property photos on July 8 and 22, September 7, 9, and 21, 2021 showed the violations. He said yesterday the home continued to have a large amount of miscellaneous items in the yard, driveway and on top of

vehicles. The property owner had told him a number of different reasons why the items were in the yard. While 4 Code Inspectors previously cited the property for the same problems, those cases were never presented to the Board.

Attorney Mytych submitted composite exhibits.

Member Farrar moved to enter an order finding the Respondent in violation of the City of Clearwater Code and requiring the Respondent to correct the violations within five days of the Board's written order. If the Respondent does not comply within the time specified, the City may take all reasonable actions, including entry onto the property, to abate and maintain the nuisance, and charge the Respondent with the reasonable costs which will become a lien on the property. If costs, fines and fees remain unpaid 3 months after such lien is filed, the City is authorized to foreclose, collect or settle such lien. The motion was duly seconded.

Charles Collum said he lived next door to the subject property. He said the property owner needed help. He said some neighbors were compassionate re her circumstance. He said dead animals were on the property which attracted rats and raccoons. He said an unfenced, untreated swimming pool, infested with mosquitoes, was in the backyard.

Inspector Odegaard said the property owner had denied him access to the backyard. When abating the listed nuisances, he hoped access to the backyard would be possible so the hazardous swimming pool could be cited. He reviewed City procedure for mitigating violations. The City can abate violations on the property for 5 years following a Board order. He did not know where the City's contractor disposed of items removed from properties.

Upon the vote being taken, the motion carried unanimously.

8. Adjourn

The meeting adjourned at 3:15 p.m.

Attest:

Chair, Municipal Code Enforcement Board

Secretary to the Board