



City of New Smyrna Beach

**THE BUILDING TRADES BOARD
NOTICE OF MEETING
TO BE HELD AT 6:30 P.M.
MARCH 17, 2016
PLANNING & ENGINEERING CONFERENCE ROOM
2650 N DIXIE FREEWAY
NEW SMYRNA BEACH, FLORIDA**

BUILDING TRADES BOARD MEMBERS:

William M. Cowherd, Chairman
Paul Heer, Vice Chairman
Joseph Blanchette
Randy Beach
R. Grant Clark
Terry D. Harrison
Charles Hoffman

Dear Board Members:

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION meeting for the Building Trades Board which has been scheduled for THURSDAY, MARCH 17, 2016, commencing at 6:30 P.M., in the Planning & Engineering Conference Room, 2650 N Dixie Freeway, New Smyrna Beach, to consider the enclosed agenda.

William Cowherd, Chairman
Building Trades Board

I. **ROLL CALL:**

II. **DISCLOSURE OF EX PARTE COMMUNICATIONS:**

Members of the Building Trades Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred prior to this public hearing for any cases on this Agenda.

III. **APPROVAL OF MINUTES:**

AUGUST 20, 2015

IV. **SWEARING OF CITY STAFF**

V. **OLD BUSINESS:**

VI. **NEW BUSINESS:**

CI 2015-13291: G.L. Martin Construction & Assoc 1214 Commodore Dr

Consideration from G.L. Martin Construction & Associates for a code interpretation on whether the contractor is in violation of the City Code of Ordinances and the Florida Building Code for the property located at 1214 Commodore Drive.

C2014-10987: Thomas Ben Mikolas 903 N Dixie Freeway

Consideration from Building Department to demolish a residential structure at 903 North Dixie Freeway due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

C2016-13432: Ted Brousseau Jr 323 Palm Street

Consideration from Building Department to demolish a residential structure at 323 Palm Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

C2016-13433: Steve & Jane Bugansky 2611 Edgewater Avenue

Consideration from Building Department to demolish a residential structure at 2611 Edgewater Avenue due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

VII. REQUEST TO APPEAR

VIII. COMMENTS FROM BOARD OR STAFF

Election of Chair and Vice Chair

IX. ADJOURNMENT

Pursuant to Florida Statutes 286.0160, if an individual decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office in person or by mail at 210 Sams Avenue, New Smyrna Beach, FL 32168, (386) 424-2112, prior to the meeting.

**MINUTES OF THE BUILDING TRADES BOARD HEARING
HELD AT 6:30 P.M. – AUGUST 20, 2015
CITY COMMISSION CHAMBERS,
210 SAMS AVENUE, NEW SMYRNA BEACH, FLORIDA**

- I. The Hearing of AUGUST 20, 2015 was called to order at 6:34 p.m. Answering to roll call were:

William Cowherd, Chairman

Paul Heer, Vice Chairman

Terry Harrison

Charles Hoffman

Joseph Blanchette

Also present were Chief Building Official Michael Knotek, Asst. City Attorney Greg McDole, and Permit & License Technician Dorlisa Pogany. Absent were Board Members Grant Clark and Randy Beach.

II. DISCLOSURE OF EX PARTE COMMUNICATIONS:

Members of the Building Trades Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred prior to this public hearing for any cases on this Agenda.

Mr. Cowherd stated for the record there were none.

III. APPROVAL OF MINUTES:

June 18, 2015

Mr. Heer made a motion to approve the minutes of June 18, 2015 meeting as written; seconded by Mr. Harrison. Motion passed unanimously 5-0.

IV. SWEARING OF CITY STAFF

Michael Knotek, Chief Building Official, was sworn for testimony.

V. OLD BUSINESS:

VI. NEW BUSINESS:

V2015-0004:

John Zemball for Stewart Mitchell

Saxon Dr

Variance to the City Code of Ordinances, Chapter 26, Section 26-678 for "New" construction and substantial improvement of any structure including manufactured homes shall have the lowest floor elevated no lower than BFE + 1'0" or 1'6" above the crown in the adjacent street, whichever is highest for proposed Lots 8-25 of Callalisa Creek Vistas, PH 2A & 2B.

Mr. Cowherd asked if anyone present to represent this case.

John Zemball, Engineer for the owner, was present and sworn in for testimony.

Mr. Knotek testified in regards to the sufficient cause, exceptional hardship, and minimum variation necessary and when a variance may be warranted for this project and read Staff's Recommendations as part of the record. Mr. Knotek further testified as to the request for this project: Variance to "New" construction and substantial improvement of any structure including manufactured homes shall have the lowest floor elevated no lower than BFE + 1'0" or 1'6" above the crown in the adjacent street, which is highest. Mr. Knotek testified the FEMA required finished floor elevation should be 6'0" or above 6'0" and the proposed average Finish Floor Elevation will be 11.61 – 12.1 instead of the required 12.61 – 13.1 requiring a one foot variance to Chapter 26, Section 26-686, (a) (1) of the City of New Smyrna Beach, Code of Ordinances.

Mr. Knotek stated it is staff's recommendation for approval of this variance with the conditions that flow vents be installed in the proposed garages if required.

Mr. Harrison made a motion to approval this variance with the conditions that flow vents be installed in the proposed garages if required; seconded by Mr. Heer. Motion carried unanimously, 5-0.

V2015-0005:

Dionisio Campbell

508 S Peninsula Av

Campbell Quality Homes & Roof

Variance to the City Code of Ordinances, Chapter 26, Section 26-678 for "New" construction and substantial improvement of any structure including manufactured homes shall have the lowest floor elevated no lower than BFE + 1'0" or 1'6" above the crown in the adjacent street, whichever is highest.

Mr. Cowherd stated for the record that there was no one present to represent this case.

Mr. Knotek testified that this is a brand new home and the contractor used the incorrect benchmark. Mr. Knotek further testified the plans were approved for 1' above the crown of the road and the contractor did not realize the error until they tried to get the certificate

of occupancy. Mr. Knotek testified that the living area does meet the FEMA Federal requirement but does not meet the City's more restrictive ordinance so the contractor is request a 1'0" variance and flow vents will be installed in the garage which is presently below the Federal regulation of 7'0. Mr. Knotek testified the FEMA required finished floor elevation is 7'0" and the proposed Finish Floor Elevation is 7.1' instead of the required 8.1' requiring a one foot variance to Chapter 26, Section 26-686, (a) (1) of the City of New Smyrna Beach, Code of Ordinances

Mr. Knotek stated it is staff's recommendation for approval of this variance with the conditions that flow vents be installed in the proposed garages if required.

Mr. Harrison made a motion to approval of this variance with the conditions that flow vents be installed in the proposed garages if required; seconded by Mr. Blanchette. Motion carried unanimously, 5-0.

2015-12837 & C2015-12838: Tiro Beachwear Inc 701 & 703 3rd Ave

Consideration from Building Department to demolish a commercial structure at 701 & 703 3rd Avenue due to unsafe or dilapidated condition as per Article X, Section 26-796 of the New Smyrna Beach Code of Ordinances.

Mr. Cowherd asked if anyone present to represent this case.

Michael Sharabani, property owner, was present and sworn in for testimony.

Mr. Knotek testified that the building had a major fire and was cleared by the state and local fire marshals to demolish. Mr. Knotek further testified that there have been complaints from people and the City Commission wants some action taken to make sure the building does not stand in this condition for two (2) years.

Mr. Knotek stated it is staff's recommendation to condemn the structure and have the owner demolish within 30 days from the date of the hearing

Mr. Sharabani testified that he wants to demolish the building but is waiting until he receives approval on his plans. Mr. Sharabani further testified that he had to apply for a variance with the Planning Department and it will be voted on September 14, 2015. Mr. Sharabani testified that as soon as he receives approval on the variance, he will submit for a building permit to demolish and rebuild the structure.

Mr. Blanchette made a motion to condemn both properties and give the owner and/or entity 90 days to demolish and failure to do so authorize the City to demolition and assess a lien; seconded by Mr. Heer. Motion carried unanimously, 5-0.

2014-12094:

Robert Fiorenzi

207 Douglas St

Consideration from Building Department to demolish a residential structure at 207 Douglas Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

2014-12095:

Robert Fiorenzi & Arla Beck

206 Douglas St

Consideration from Building Department to demolish a residential structure at 206 Douglas Street due to unsafe or dilapidated condition as per Article X, §26-796 of the New Smyrna Beach City Code of Ordinances.

Cases 2014-12094 and 2014-12095 are being combined as one, due to same owner and location.

Mr. Cowherd asked for the record to reflect that no one was present to represent this case and asked staff for their recommendation.

Mr. Knotek testified that both properties were condemned by the Board at their February 19, 2015 and the property owner given 30 days to repair or demolish the structures. Mr. Knotek further testified that both properties have tenants and since there was no action taking place on any repairs, he posted a condemned sign and gave the owner 15 days to demolish. Mr. Knotek testified that the tenants stopped paying rent so the owner contacted the office. Mr. Knotek further testified that the owner is requesting the Board reconsider the condemnation because the Bank will not loan him money with a condemnation notice against the property. Mr. Knotek testified that if the condemnation is upheld by the Board, tenants will have to be evicted which will require the City's Legal Department to step in.

Mr. Knotek testified that the owner came in with a list of repairs to be completed but nothing has really been completed. Mr. Knotek further testified that only minor items have been corrected.

Discuss ensued among Staff and the Board Members as to the direction the City should take and if any liability could come back on the City and/or the Board.

Mr. Heer made a motion to uphold and maintain the Condemnation Board Order dated February 19, 2015 for both properties; seconded by Mr. Blanchette. Motion carried unanimously, 5-0.

VII. COMMENTS FROM BOARD MEMBERS AND STAFF

Mr. Knotek advised the Board the Brannon Center demolition has been completed and DBI Demolition has demolished 3-4 houses with approximately 2-3 more to be

demolished. Mr. Knotek further stated that he will be bringing more properties to the Board for review.

VIII. ADJOURNMENT

Mr. Heer made a motion for the meeting to be adjourned; seconded by Mr. Blanchette. All agreed and the meeting adjourned at 6:35 PM.

Pursuant to Florida Statutes 286.0160, if an individual decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office in person or by mail at 210 Sams Avenue, New Smyrna Beach, FL 32168, (386) 424-2112, prior to the meeting.



Building Department

210 Sams Avenue
New Smyrna Beach, Florida 32168
Phone: (386) 424-2141
Fax: (386) 424-2143
www.cityofnsb.com

Staff Recommendations

Builders Trade Board

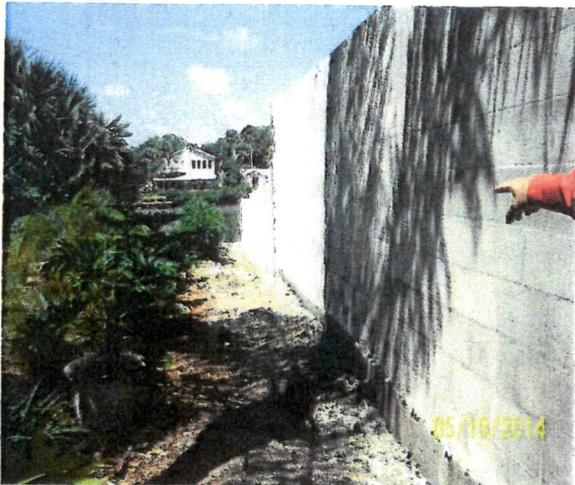
TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Appeal of Staff's Interpretation
CASE NO: CI 2015-13201
DATE: March 17, 2016

COMPLAINT:

Mr. and Mrs. Appleton at 1216 Commodore Drive, New Smyrna Beach, Florida has filed a complaint with the City of New Smyrna Beach Building Department about the height of a concrete wall that was built on the property line between 1216 and 1214 Commodore Drive. The contractor, G.L. Martin Construction & Associates obtained a building permit (201401561) on April 10, 2014.

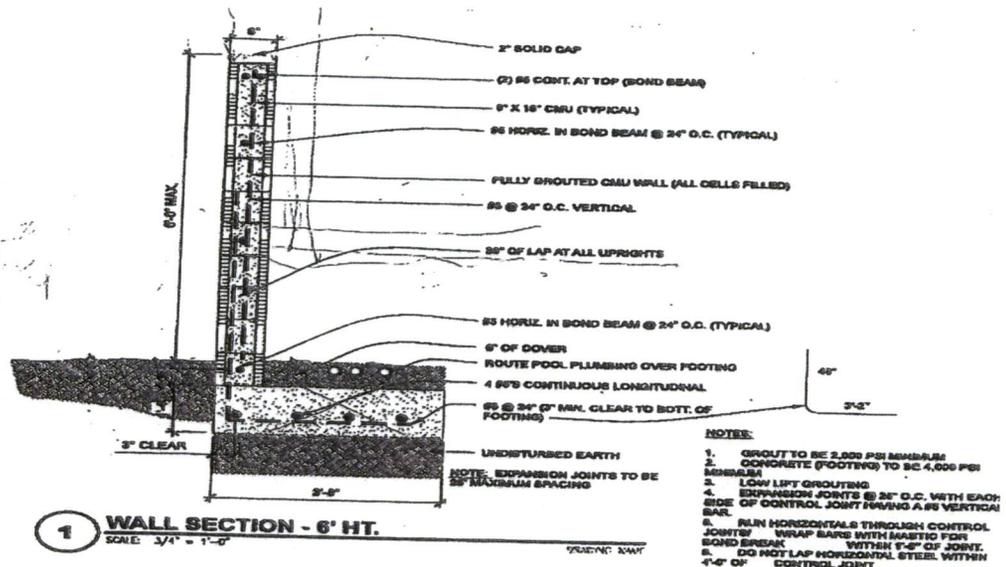
FACTS:

1. The City of New Smyrna Beach's Code of Ordinances limits the height of fences/walls within the yards of properties zone residential within the New Smyrna Beach city limits.
2. The height of a fence is 4 foot in the front yard and 6 foot in the side and rear yard except for atypical lots.
3. These lots are not considered atypical lots because they front a private street.
4. The homes on Commodore Drive were built at different times creating a possible difference in existing grade.
5. The existing grade difference between 1214 and 1216 Commodore is approximately 16 inches to 24 inches
6. New Smyrna Beach Code of Ordinances does not specifically indicate from where the height of the wall should be measured from.
7. The property located at 1216 Commodore Street had an existing 4 foot high concrete block wall
8. The existing 4 foot wall was removed by the contractor with the approval of the owners located at 1216 Commodore Street
9. The contractor constructed the new concrete block measuring the 6 foot height on his customers (1214 Commodore Street) side of the wall. (see photos below)
10. The new concrete block wall measures 8 feet in height on 1216 Commodore Street side of the wall
11. As of this date the wall is not stucco or painted on the 1216 Commodore Street side and the final grading has not been finished.
12. The wall has received a final building inspection, however, has not received a Final Certificate of Completion.



INTERPRETATION:

It is the my interpretation as Chief Building Official for the City of New Smyrna Beach that the new concrete block wall does not meet the detailed shown on the approved permit set (see below)



- a. The detail indicates a 3 foot 8 inch footing would be located on 1214 Commodore Street side of the wall
- b. The detail also indicates that the height of the wall is 6 foot on the 1216 Commodore Street side.
- c. The detail also indicates that there is no stucco or paint on the 1216 Commodore Street side

Therefore, it is my further interpretation that one of the following must occur:

1. Three courses of block can be removed from the entire length of the high wall.
2. The contractor may submit a revision to his approved plans indicating that the wall be measured from his customer's side. This revision would have to be reviewed and approved by the necessary city departments as any other revision.
3. The contractor may apply to the Builder's Trade Board to appeal my interpretation; or
4. I will consider any alternative solution from the two parties involved.

It should be understood that there is no obligation of the contractor and there is no code that would require that the wall be finished on the 1216 Commodore Street side. With no living space involve, there is not a requirement to seal and waterproof the wall. However, the final building inspection will not be completed until the courses are remove or an approval has been issued through a revision or by the Builder's Trade Board.

Good and Sufficient Cause

Because land development regulations do not anticipate every imaginable situation, the interpretation process allows a developer to seek permission to vary from the letter of the rules because of a special situation. "*The applicant has the burden of proving their interpretation.*" Reasons for overturning staff's interpretation must be substantial; the proof must be compelling. Financial hardship, inconvenience, aesthetic considerations, or personal preferences do not qualify as a reason to overturn an interpretation. Any interpretation should allow only minimum deviation from the local requirements.

Project:

1214 Commodore Drive – Single Family Home

Codes and Ordinances

New Smyrna Beach Code of Ordinances

Section: 803.03. Regulations pertaining to fences, walls, and hedges.

A. Typical lots.

Properties zoned residential.

Maximum height:

- Within required front yard setback: Four feet;
- Outside required front yard setback: Six feet

Request:

Appeal of the Building Official's Interpretation.

Staff Recommendation

The intent of the section of the Code of Ordinance was to prevent height of a wall or fence from being intrusive to the neighbors without minimizing life safety. The City's Code of Ordinances does not reference the side of the fence or wall the height is measured from, therefore, creating a possible conflict between the owners of each side of the fence or wall when there is a grade elevation difference. Since the complaint was submitted before the Certificate of Completion was issued by the Building Department, I placed a hold on the permit. The building inspector had made his final structural approval during the research of the neighbor's complaint. As shown above regardless of the interpretation of the City's Code of Ordinances the approved construction plans showed that the wall was to be six foot high on the neighbor's side. Therefore it is staff recommendation that this Board upholds Staff's interpretation, and recommends that 1. The contractor installs a stucco finish on the Appleton's side with an accent band and paints; 2. Fill in the gap between their existing wall and the new concrete wall with river rock; 3. cleanup of the area around the footer of the removed (4) foot retaining wall, including cutting off of any projecting rebar flush with the footer or remove three courses of block from the entire length of the high wall per Building Department's approval



Building Department

210 Sams Avenue
New Smyrna Beach, Florida 32168
Phone: (386) 424-2141
Fax: (386) 424-2143
www.cityofnsb.com

Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Unsafe & Dilapidated Structure
903 N. Dixie Freeway
New Smyrna Beach, Florida
CASE NO: C2014-10987
DATE: March 17, 2016

Since the structures have been vacant for a long period of time, the Code Enforcement Inspector referred the property to the Building Department. The property has not been maintained and is now a public health and safety issue. Due to the lack of response from the property owners to make any attempts of correcting the situation, the Building Department has recommended that the matter be referred to the Building Trades Board for further action.

Upon inspection of the property by the Building Department, the following items were noted:

- The structure's exterior or interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- X The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- X The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities necessary for health, safety, or general welfare.
- X The structure has parts which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.
- The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property

The property was subsequently posted with the violation letter and notice of hearing.

Photographs of the property that was taken showing the condition of the property is attached for your review.

ALTERNATIVES

1. Allow the owner additional time to repair or demolish the structures.

2. Proceed with the demolition; determine if the structures will be demolished by the City of New Smyrna Beach or a private contractor, and authorize an execution against the owner and property if the expenses are not paid within 30 days from the date of the invoice.

RECOMMENDATION

Alternative number 2 is recommended. Based on the inspections, there are parts of the structures that are in danger of collapsing and the condition of the property is a blight to the neighboring properties. Staff recommend that the structure be demolished within 30 days from the date of this hearing. If the structure is not demolished within 30 days then the city will proceed with the demolition and all costs incurred by the city in carrying out the demolition shall be assessed against the owner. The costs incurred by the city are declared to be a debt due the city. Such amounts, if not paid within 30 days of billing, shall be recoverable by the city in court and shall constitute a lien against the property.

If the Board chooses to allow the property owner to repair the structures and bring the structures up to code, Staff recommends that the Board condemn the property and under Section 26-799 (Repairs after condemnation) of the City of New Smyrna Beach Code of Ordinances allow the owner to repair only upon written agreement specifying the nature of the repairs, the date on which the repairs shall be complete, and an agreement that failure to complete the repairs within the time provided authorizes the city to take remedial action with attachment of a lien for all costs incurred by the city.





Building Department

210 Sams Avenue
New Smyrna Beach, Florida 32168
Phone: (386) 424-2141
Fax: (386) 424-2143
www.cityofnsb.com

Staff Recommendations

Builders Trade Board

TO: Building Trade Board
FROM: Michael W. Knotek, Chief Building Official
SUBJECT: Unsafe & Dilapidated Structure
323 Palm Street
New Smyrna Beach, Florida
CASE NO: C2016-13432
DATE: March 17, 2016

Since the structures have been vacant for a long period of time, the Code Enforcement Inspector referred the property to the Building Department. The property has not been maintained and is now a public health and safety issue. Due to the lack of response from the property owners to make any attempts of correcting the situation, the Building Department has recommended that the matter be referred to the Building Trades Board for further action.

Upon inspection of the property by the Building Department, the following items were noted:

- X The structure's exterior or interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- X The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- X The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities necessary for health, safety, or general welfare.
- X The structure has parts which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.
- X The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property

The property was subsequently posted with the violation letter and notice of hearing.

Photographs of the property that was taken showing the condition of the property is attached for your review.

ALTERNATIVES

1. Allow the owner additional time to repair or demolish the structures.

2. Proceed with the demolition; determine if the structures will be demolished by the City of New Smyrna Beach or a private contractor, and authorize an execution against the owner and property if the expenses are not paid within 30 days from the date of the invoice.

RECOMMENDATION

Alternative number 2 is recommended. Based on the inspections, there are parts of the structures that are in danger of collapsing and the condition of the property is a blight to the neighboring properties. Staff recommend that the structure be demolished within 30 days from the date of this hearing. If the structure is not demolished within 30 days then the city will proceed with the demolition and all costs incurred by the city in carrying out the demolition shall be assessed against the owner. The costs incurred by the city are declared to be a debt due the city. Such amounts, if not paid within 30 days of billing, shall be recoverable by the city in court and shall constitute a lien against the property.

If the Board chooses to allow the property owner to repair the structures and bring the structures up to code, Staff recommends that the Board condemn the property and under Section 26-799 (Repairs after condemnation) of the City of New Smyrna Beach Code of Ordinances allow the owner to repair only upon written agreement specifying the nature of the repairs, the date on which the repairs shall be complete, and an agreement that failure to complete the repairs within the time provided authorizes the city to take remedial action with attachment of a lien for all costs incurred by the city.

