

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD  
HEARING HELD AT 4:30 P.M.  
FEBRUARY 21<sup>ST</sup>, 2006  
UTILITIES COMMISSION, 3<sup>RD</sup> FLOOR, DEBERRY ROOM, 200 CANAL STREET  
NEW SMYRNA BEACH, FLORIDA

The Hearing of February 21<sup>st</sup>, 2006 was called to order at 4:30 p.m. Answering to roll call:

Maggie Hawk (Chairperson)  
John Shelby (Vice Chairperson)  
Michael E. Slayton  
Jay Crocker  
Elliott Hoffman  
Susan Ellis  
Carol Kerrigan

Also present were Code Enforcement Supervisor Lynne Kunkle, Code Enforcement Officer Barbara Bobelak and Administrative Specialist Inga Campbell.

**DISCLOSURE OF EX PARTE COMMUNICATIONS:**

Members of the Citizens Code Enforcement Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred prior to this public hearing.

**APPROVAL OF MINUTES**

January 17<sup>th</sup>, 2006

**Susan Ellis made a motion to approve the minutes as written; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.**

**SWEARING OF CITY STAFF:**

**Regina Lynne Kunkle, Code Enforcement Supervisor and Barbara Jo Bobelak, Code Enforcement Officer were sworn for testimony.**

**OLD BUSINESS:**

**CE2004-0185D: Tony D. & Theresa Kelly**

**[Served]**

Violation of §101.6 of the Standard Housing Code, 1997 Edition by permitting a structure to exist that has not been maintained in a safe and sanitary condition located at 609 Dora Street.

April 20, 2004: The Board found this case in violation and continued this case until July 20, 2004.

July 20, 2004: The Board continued this case until October 19, 2004.

October 19, 2004: The Board took no action at that time.

April 19, 2005: The Board continued this case until July 19, 2005.

July 19, 2005: The Board continued this case until October 18, 2005.

October 18, 2005: The Board continued this case until February 21, 2006.

**Chairperson Hawk referred to the Code Enforcement Update Status Sheet stating this case was in compliance.**

**Michael Slayton made a motion finding this case in compliance; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.**

**NEW BUSINESS:**

**C2006-0020: Charles G. Baldwin**

**[Served]**

Violation of §74-146 of the City Code of Ordinances by permitting a Business operation (Real Estate Agent) without having paid the occupational license tax located at 216 Flagler Avenue.

Violation of §604.14 B. of the Land Development Regulations permitting a real estate sign located in the right-of-way at the corner of Jessamine Street and South Cooper Street.

**Chairperson Hawk noted for the record no one was present to represent this case.**

**Chairperson Hawk stated for the record that she had recused herself from this particular case because she is a real estate agent in New Smyrna Beach.**

**Mr. Gummey stated the standard is whether this matter would inure to your private gain or loss.**

**Chairperson Hawk stated that this matter could inure to her private gain or loss because the application of the law and whether this is actually something that applies or does not apply to realtors.**

**Mr. Gummey asked Chairperson Hawk if she was associated with this real estate agency.**

**Chairperson Hawk stated she was an individual who works for herself, as all realtors do who are not brokers of record, as an independent contractor in association with a real estate company but not the stated real estate company. Chairperson Hawk stated this same ordinance and the application of the ordinance affects anyone who practices real estate in New Smyrna Beach.**

**Mr. Gummey stated the rule of thumb tends to be the one percent rule, which states if you are more than one percent of the class affected by something then it might enter at a special private gain or loss.**

**Chairperson Hawk stated she is a very conservative individual and she errs to the side of caution.**

**Mr. Gummey stated the rule is that a member of the Board must vote on things unless you have a voting conflict of interest.**

**Chairperson Hawk stated her conflict is the application of this code to real estate agents and whether she agrees or disagrees with the law and would like to not influence the Board regarding this matter by participating in discussion or vote.**

**Mr. Gummey stated he did not see this as a voting conflict of interest but he is there to advise the law and she must make her own decision.**

**Ms. Bobelak stated Charlie Baldwin had been in contact with her to discuss these matters. There have been inspections and the license is dependant on the next inspection. The signs have been removed from the right of way resolving this violation. Staff is asking the Board for a continuance of this case until the 21<sup>st</sup> day of March 2006.**

**Chairperson Hawk asked Ms. Bobelak how inspections tie into the first violation.**

**Ms. Bobelak stated the building must be inspected for the occupational license to be issued if it has not had a recent inspection by the Building Inspector and the Fire Marshal.**

**Mr. Crocker asked Ms. Bobelak if she was withdrawing the allegation of the second violation.**

**Ms. Bobelak stated the City is withdrawing the second violation.**

**Mr. Crocker asked Ms. Bobelak how long is needed for the final inspection.**

**Ms. Bobelak stated there has been one inspection and Mr. Baldwin was required to correct the violations before the final inspection. Ms. Bobelak stated Mr. Baldwin expects to have this completed within the next 30 days.**

**Mr. Crocker asked Ms. Bobelak if she was suggesting to continue this case until the March Board Meeting.**

**Ms. Bobelak stated that was correct.**

**Mr. Crocker made a motion to continue this case until the 21<sup>st</sup> day of March 2006 Board Meeting; seconded by Susan Ellis. Motion passed unanimously on roll call vote 7-0.**

**DISCUSSION:**

**Mr. Crocker asked Staff if the case concerning Tony D. & Theresa Kelly property was sold are the violations still in existence under a new owner and have to present a new case.**

**Ms. Kunkle stated the violations no longer exist.**

**ADJOURNMENT:**

**Jay Crocker made a motion to adjourn; seconded by Susan Ellis. All agreed and the Board adjourned at 4:39 pm.**

Pursuant to Florida statute 286.0105, if an individual decides to appeal any decision made by the Citizens Code Enforcement Board with respect to any matter considered at this hearing, 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 (ADA), persons needing assistance to participate in any of these proceedings should contact the Administrative Specialist of the Citizens Code Enforcement Board listed below prior to the hearing:

Inga Campbell  
Administrative Specialist  
% City Hall  
210 Sams Avenue  
New Smyrna Beach, FL 32168-9985  
Telephone: 386.424.2265  
Fax: 386.424.2143