

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD  
HEARING HELD AT 4:30 P.M.  
April 19th, 2005  
CITY COMMISSION CHAMBERS, 210 SAMS AVENUE  
NEW SMYRNA BEACH, FLORIDA

The Hearing of April 19th, 2005 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, Frank Gummey, City Attorney and Inga Campbell, Administrative Specialist.

**APPROVAL OF MINUTES**

March 15<sup>th</sup>, 2005

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

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

**OLD BUSINESS:**

**CASE NO:** CE2004-0185D

Tony D & Theresa Kelly  
1900 E. Gateway Drive  
New Smyrna Beach, FL 32168

Violation Location: 609 Dora Street

- A. Permitting or causing to be permitted a structure to exist that has not been maintained in a safe and sanitary condition in violation of §101.6 of the Standard Housing Code, 1997 Edition.

At the Hearing on the 20<sup>th</sup> day of April 2004 the Board entered an Order finding Tony D. & Theresa Kelly in violation and continued this case until the 20<sup>th</sup> day of July 2004.

At the Hearing on the 20<sup>th</sup> day of July 2004 the Board entered an Order continuing this case to the 19<sup>th</sup> day of October 2004.

At the Hearing on the 19<sup>th</sup> day of October 2004 the Board took no action at that time.

**Tony D. & Theresa Kelly were present and sworn for testimony.**

**Chairperson Hawk asked Mr. & Mrs. Kelly if they were in agreement with the violation. Mr. & Mrs. Kelly stated they agree with the violation and hired Robert Howard to help them with the project.**

**Ms. Kunkle informed the board they had already found the property in violation on April 20<sup>th</sup>, 2004 and that Bob Howard is the architect of record and he is unable to attend the meeting but is asking for a 60-day continuance.**

**Ms. Hawk asked Ms. Kunkle for the City's recommendation. Ms. Kunkle stated the City's recommendation was to grant the 60-day continuance.**

**Ms. Hawk asked the board if they had any questions for the Kelly's. No questions were asked.**

**Michael Slayton made a motion to continue this case for 60 days; Jay Crocker seconded the motion. John Shelby asked for discussion with regards to the condition of the structure and whether or not it is harmful to the public. Mr. Kelly stated that the structure is nailed and locked up. Ms. Kunkle agreed that the structure is boarded and secured. Susan Ellis reminded the board they would not have a meeting in 60 days.**

**Michael Slayton amended his motion to continue this case until the July 19<sup>th</sup>, 2005 meeting; Jay Crocker amended his second to reflect the same. Motion passed unanimously on roll call vote 7-0.**

**CASE NO:** C2004-0354

Tiro Beachwear, Inc.  
701 3<sup>rd</sup> Avenue  
New Smyrna Beach, FL 32169

IN  
COMPLIANCE

Violation Location: Saxon Drive

- A. Permitting or causing to be permitted the removal of 14 trees without the required tree removal permit in violation of §604.05 A. (3) of the Land Development Regulations.

At the Hearing on the 18<sup>th</sup> day of May 2004 the Board entered an Order continuing this case until the 20<sup>th</sup> day of July 2004.

At the Hearing on the 20<sup>th</sup> day of July 2004 the Board entered an Order continuing this case until the 21<sup>st</sup> day of September 2004.

Due to Hurricane Ivan the September 21<sup>st</sup>, 2004 Hearing was cancelled.

At the Hearing on the 19<sup>th</sup> day of October 2004 the Board entered an Order continuing this case until the 18<sup>th</sup> day of January 2005.

At the Hearing on the 18<sup>th</sup> day of January 2005 the Board entered an Order continuing this case until the 15<sup>th</sup> day of February 2005.

At the Hearing on the 15<sup>th</sup> day of February 2005 the Board entered an Order continuing this case until the 15<sup>th</sup> day of March 2005.

At the Hearing on the 15<sup>th</sup> day of March 2005 the Board entered an Order finding the subject property in violation and gave Michael Sharabani ten (10) days to bring the property into compliance or face a fine of \$100.00 per day for each and every day the subject property remains in violation.

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

**Ms. Hawk stated the subject property is in compliance as noted.**

**Chairperson Hawk asked if they were brought into compliance prior to the fine going into effect. Ms. Kunkle stated that it was. Ms. Hawk asked what Mr. Sharabani did to bring it into compliance. Ms. Kunkle stated that he contributed to the tree fund.**

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

**CASE NO:** C2005-0055

Tessie Richardson  
P. O. Box 596  
Alachua, FL 32615-0596

Violation Location: 534 Mary Avenue

- A. Permitting or causing to be permitted sanitary facilities to exist that have not been properly maintained in good sanitary working conditions free from defects, leaks and obstructions in violation of §302.1 of the Standard Housing Code 1997 Edition.
- B. Permitting or causing to be permitted water heating facilities that has not been properly maintained in a safe and good working condition in violation of §302.4 of the Standard Housing Code 1997 Edition.
- C. Permitting or causing to be permitted a gas heater that has not been properly maintained in a safe and good working condition in violation of §302.5.1 of the Standard Housing Code 1997 Edition.
- D. Permitting or causing to be permitted kitchen facilities to exist without proper cooking facilities and refrigeration in violation of §302.6 of the Standard Housing Code 1997 Edition.
- E. Permitting or causing to be permitted electrical outlets and fixtures to exist that have not been properly maintained in safe and good working condition and connected to a source of electric power in violation of §304 of the Standard Housing Code 1997 Edition.
- F. Permitting or causing to be permitted roof system to exist that is not structurally sound and maintained in a safe manner without defects, which admits rain and causes dampness in the walls and interior portion of the building in violation of §305.3.1 of the Standard Housing Code 1997 Edition.
- G. Permitting or causing to be permitted stairs and porches to exist that has not been maintained in a sound condition and good repair in violation of §305.5 of the Standard Housing Code 1997 Edition.
- H. Permitting or causing to be permitted windows to exist that are not substantially weathertight and rodent proof, and maintained in sound working condition and good repair in violation of §305.7 of the Standard Housing Code 1997 Edition.
- I. Permitting or causing to be permitted windows to exist that cannot be easily opened and secured in position by window hardware in violation of §305.10 of the Standard Housing Code 1997 Edition.
- J. Permitting or causing to be permitted floors, interior walls and ceilings that have not been maintained in sound condition and good repair and are incapable of supporting the load which normal use may cause to be placed thereon in violation of §305.16.1 of the Standard Housing Code 1997 Edition.

- K. Permitting or causing to be permitted bathroom and kitchen floor surface that has not been maintained so as to be substantially impervious to water and so as to permit such floors to be easily kept in a clean and sanitary condition in violation of §305.16.2 of the Standard Housing Code 1997 Edition.

At the Hearing on the 15<sup>th</sup> day of March 2005 the Board entered an Order to continue this case until the 19<sup>th</sup> day of April 2005.

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

**Ms. Hawk asked Ms. Kunkle to update the board. Ms. Kunkle stated that Ms. Bobelak has the update and asked Ms. Bobelak if the appeal period had expired. Ms. Kunkle stated that the board continued this case because the green card had not been returned for the notice of hearing at the March 15<sup>th</sup>, 2005 meeting. Ms. Bobelak stated that the appeal period has expired because they were notified the first time and the green card has been returned. Ms. Bobelak stated that the green card is present for this meeting.**

**Ms. Bobelak submitted pictures for the Board to review of the inside and outside of the residence that she had taken April 19<sup>th</sup>, 2005. Ms. Hawk asked Ms. Bobelak how she was able to obtain indoor photos of the residence. Ms. Bobelak stated that she was allowed entry from the tenant. Ms. Hawk asked if the residence was currently occupied. Ms. Bobelak stated that the location was semi-occupied that the resident keeps her belongings there but she doesn't stay there due the condition of the building. Ms. Bobelak stated she has had no contact with the property owner. Ms. Hawk asked if there was electricity to the structure. Ms. Bobelak stated that the property owner had the electricity as well as the gas turned off to the property.**

**Ms. Hawk asked what the City's recommendation was. Ms. Bobelak suggested the Board give the owner a certain number of days or face a fine.**

**Jay Crocker made a motion to find this property in violation of the housing code; John Shelby seconded the motion. Mr. Shelby asked how we determined how we knew the windows cannot stay open on their own. Ms. Bobelak stated she had witnessed the window needing a mechanism in order to keep the window open. Motion passed unanimously on roll call vote 7-0.**

**Ms. Hawk asked if we should start a fine or bring it back for a hearing to impose fine. Ms. Kunkle recommends the Board bring it back before a fine is imposed and recommends they have until May 17<sup>th</sup>, 2005. Mr. Shelby states he hates to give them 30 days due to the conditions of the property. Ms. Kunkle states the**

**only reason for her recommendation was to give them time to find a contractor and an architect should they choose to rehabilitate the structure and bring it into compliance.**

**Jay Crocker made a motion to give them 20 days to come into compliance or face a fine of \$100.00 per day; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.**

**CASE NO: C2005-0085      Joy Luck  
1918 State Road 44  
New Smyrna Beach, FL 32168**

**Violation Location: 1918 State Road 44**

- A. Permitting or causing to be permitted the installation of signs without the required permit in violation of §604.14 D. of the Land Development Regulations.**

**At the Hearing on the 15<sup>th</sup> day of March 2005 the Board entered an Order to continue this case until the 19<sup>th</sup> day of April 2005.**

**Jenny Chiu was present and sworn for testimony.**

**Chairperson Maggie Hawk asked if Ms. Chiu agreed with the violation. Ms. Chiu stated that she did agree with the violation. Ms. Chiu thought the sign company was going to obtain the permit prior to installation of the sign. Ms. Hawk asked if any action had been taken to bring it into compliance. Ms. Chiu stated that they have applied for the permit and it is in the building department. Ms. Bobelak stated the permit package is waiting for review in the Building Department and it has been signed off on by the Zoning Department.**

**John Shelby made the motion to continue this case until the 19<sup>th</sup> day of July 2005; seconded by Susan Ellis. Mr. Slayton brought to the Board's attention that the motion didn't make a finding of violation and wanted to know if that was intentional.**

**John Shelby revised his motion finding Joy Luck in violation continued the case until the 19<sup>th</sup> of July 2005; seconded by Susan Ellis. Motion passed unanimously on roll call vote 7-0.**

**DISCUSSION:**

None

**ADJOURNMENT:**

There being no further business John Shelby made a motion to adjourn the Hearing; seconded by Jay Crocker. All agreed and the board adjourned at 5:01 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