

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING HELD AT 4:30 P.M.
OCTOBER 18TH, 2005
UTILITIES COMMISSION, 3RD FLOOR, DEBERRY ROOM, 200 CANAL STREET
NEW SMYRNA BEACH, FLORIDA

The Hearing of October 18th, 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, City Attorney Frank Gummey, and Administrative Specialist Inga Campbell.

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

APPROVAL OF MINUTES

September 1st, 2005 & September 2nd, 2005

September 20th, 2005

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

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.

Tony and Theresa Kelly were sworn for testimony.

Chairperson Hawk asked the status of this violation as of today.

Mr. Kelly stated a majority had been accomplished. Mr. Kelly testified all new braces and beams had been installed.

Ms. Kunkle stated the Kelly's have a permit for construction and the structure is being rebuilt. Ms. Kunkle stated the City recommends a continuance until the February 21st, 2006 hearing.

Jay Crocker made a motion to continue this case until the February 21st, 2006 hearing; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

CASE NO: C2005-0055

Tessie Richardson
PO 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.
- B. Permitting or causing to be permitted water-heating facilities that have not been properly maintained in a safe and good working condition.
- C. Permitting or causing to be permitted a gas heater that has not been properly maintained in a safe and good working condition.
- D. Permitting or causing to be permitted kitchen facilities to exist without proper cooking facilities and refrigeration.
- 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.
- 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.

- G. Permitting or causing to be permitted stairs and porches to exist that has not been maintained in a sound condition and good repair.
- H. Permitting or causing to be permitted windows to exist that are not substantially weather-tight and rodent proof, and maintained in sound working condition and good repair.
- I. Permitting or causing to be permitted windows to exist that cannot be easily opened and secured in position by window hardware.
- 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.
- 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.

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

Ms. Bobelak stated there have been no permits applied for and no contact with Code Enforcement. Ms. Bobelak stated this hearing is to authorize the City Attorney to foreclose on the property.

Michael Slayton made a motion to authorize the City Attorney to foreclose on this property; seconded by John Shelby.

Mr. Crocker asked Staff if all the notice provisions were in compliance.

Ms. Bobelak stated the notices were delivered and signed for on October 7th, 2005.

Motion passed unanimously on roll call vote 7-0.

CASE NO: C2005-0082

Beverly A. Neff
574 Ronnoc Lane
New Smyrna Beach, FL 32168

Violation Location: 316 N. Orange Street

- A. Permitting or causing to be permitted the occupancy of dwelling units that does not comply with the requirements of the Standard Housing Code, 1997 edition in violation of §310 of the Standard Housing Code, 1997 Edition.
- B. Permitting or causing to be permitted the occupancy of dwelling units without the required sanitary facilities (kitchen sink, lavatory, tub or shower, and a

- water closet) being maintained in good working condition and every plumbing fixture and water and waste pipe maintained in good sanitary working condition free from defects and leaks in violation of §302.1 of the Standard Housing Code, 1997 Edition.
- C. Permitting or causing to be permitted the occupancy of dwelling units without the required heating facilities in violation of §302.5.1 of the Standard Housing Code, 1997 Edition.
 - D. Permitting or causing to be permitted the occupancy of dwelling units without the required number of electric lights and outlets in violation of §303.4 of the Standard Housing Code, 1997 Edition.
 - E. Permitting or causing to be permitted the occupancy of dwelling units without every electrical outlet and fixture, and all electrical wiring and equipment connected to a source of electric power in accordance with the electric code in violation of §304 of the Standard Housing Code, 1997 Edition.
 - F. Permitting or causing to be permitted the occupancy of dwelling units in which the exterior walls have holes, breaks, loose or rotting boards which admits rain or dampness to the interior portion of the walls and occupied spaces of the building in violation of §305.2 of the Standard Housing Code, 1997 Edition.
 - G. Permitting or causing to be permitted the occupancy of dwelling units in which the roof has defects that admits rain or causes dampness in the walls or interior portion of the building in violation of §305.3.1 of the Standard Housing Code, 1997 Edition.
 - H. Permitting or causing to be permitted the occupancy of dwelling units in which the stairs and porches are so deteriorated that they are no longer safe to use and capable of supporting the load that normal use may be caused to be placed thereon in violation of §305.5 of the Standard Housing Code, 1997 Edition.
 - I. Permitting or causing to be permitted the occupancy of dwelling units without the windows being substantially weather tight, watertight and rodent proof and in sound working condition and good repair in violation of §305.7 of the Standard Housing Code, 1997 Edition.
 - J. Permitting or causing to be permitted the occupancy of dwelling units without the windows, required for light and ventilation, capable of being easily opened and secured in position by window hardware in violation of §305.10 of the Standard Housing Code, 1997 Edition.
 - K. Permitting or causing to be permitted the occupancy of dwelling units which do not have central air conditioning systems or screens, stretched and fitted and maintained without open rips or tears, on all exterior openable windows and doors used or required for ventilation in violation of §305.13.1 of the Standard Housing Code, 1997 Edition.
 - L. Permitting or causing to be permitted a building containing occupied dwelling units with exterior wood surfaces that are not protected from the elements and decay by paint or the use of another protective covering or treatment and

siding that has deteriorated to such a state that the exterior walls are no longer weather resistant and water tight in violation of §305.14 of the Standard Housing Code, 1997 Edition.

- M. Permitting or causing to be permitted the occupancy of dwelling units with floors, interior walls and ceilings so deteriorated they no longer are substantially rodent proof and in sound condition and good repair or capable 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.
- N. Permitting or causing to be permitted the occupancy of dwelling units without every toilet, bathroom and kitchen floor surface being maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition in violation of §305.16.2 of the Standard Housing Code, 1997 Edition.

Beverly A. Neff was sworn for testimony.

Ms. Neff testified that half the tenants are out and the other half remains refusing to leave. Ms. Neff made a plea to have the fines begin November 3rd, 2005. Ms. Neff stated she spoke with Irene at the Courthouse, who stated there was no such thing as a 7-day notice, but 3-day notices have been issued and it will take until November 3rd, 2005 to complete this process.

Ms. Kerrigan asked Ms. Neff what processes she had taken other than removal of the tenants.

Ms. Neff stated she had called the utilities requesting the power and water service be discontinued. Ms. Neff stated when she informed the tenants of this matter the police were called, who in turn called Ms. Kunkle. Ms. Neff stated she had to cancel the request for the service to be discontinued. Ms. Neff stated the demolition papers were completed and returned to Ms. Kunkle a couple of weeks ago.

Ms. Kunkle stated the demolition papers had been received. Ms. Kunkle stated this would be part of a large demolition involving the HUD Grant. Ms. Kunkle testified it has been approximately 7 days ago that Ms. Neff began the eviction process. Ms. Kunkle stated the units have all been for rent listed in the PennySaver every Wednesday since the last Board hearing until October 12th, 2005.

Ms. Neff stated she believed she could get all the tenants out with the 7-day notice because the City of New Smyrna Beach told her to vacate. Ms. Neff presented her 7-day notices to the Board for their review.

Mr. Crocker asked Ms. Neff if she had in fact continued to advertise the rooms for rent since her last hearing.

Ms. Neff testified that she had continued to advertise the rooms for rent since her last hearing.

Mr. Crocker asked Ms. Neff why she would continue to advertise these rooms for rent to bring in additional tenants.

Ms. Neff stated she was told she could give the tenants a 7-day notice since they only pay by the week.

Mr. Crocker asked if Ms. Neff had taken on new tenants since her last hearing.

Ms. Neff stated she had taken on one new tenant but he has already vacated the property.

Ms. Kunkle stated the police informed Ms. Neff she could not turn the utilities off due to tenants refusing to leave. Ms. Kunkle stated the tenants had rented less than two weeks prior to this. Ms. Kunkle stated the removal of the tenants was due to substandard housing violations. Ms. Kunkle resubmitted the pictures of the structure for the Board's review. Ms. Kunkle stated the advertisements in the PennySavers with the dates are available in the file for review.

Mr. Crocker asked Mr. Gummey if the Board were so inclined, would it be possible for the amount of fine to be increased.

Mr. Gummey stated he would be disinclined to revisit the amount of fine.

Chairperson Hawk stated her concern is the ongoing advertising with the safety violations within the structure.

Ms. Neff stated she believed since the City was evicting everyone, the tenants would have be out in 7 days.

Michael Slayton made a motion to continue this case until the November 15th, 2005 hearing allowing the fine to accrue until that time; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

Ms. Kunkle asked Mr. Slayton for clarification on the imposing of the fine or reviewing the fine on November 15th, 2005.

Mr. Slayton confirmed the fine begins October 18th, 2005.

Mr. Gummey stated potentially the Board would need to vote next month if it is continued and at that time it can be determined when compliance was achieved. Mr. Gummey further stated he did not feel the Board wanted this to be viewed as a signal to the property owner that this gives another month of grace like the first two months was misinterpreted as a two month period of grace instead of two months to comply. Mr. Gummey stated compliance was not even attempted until 7 days ago.

Mr. Crocker stated the fine would commence immediately.

Mr. Slayton confirmed the intention of his motion was to impose the fine immediately.

Mr. Gummey stated the end of the fine would be determined by the amount of compliance and when compliance had been achieved.

Ms. Neff asked the Board when the fine would be due.

Mr. Gummey stated once the property has come into compliance she is to contact Code Enforcement for inspection and the fine would be due at that time.

CASE NO: C2005-0195 Clariece Everette
507 N. Duss Street
New Smyrna Beach, FL 32168

Violation Location: 507 N. Duss Street

- A. Permitting or causing to be permitted storage of abandoned, junked or discarded motor vehicles upon the subject property in violation of §38-31 (a) of the City Code of Ordinances.
- B. Permitting or causing to be permitted discarded and abandoned waste material upon the subject property in violation of §38-113 of the City Code of Ordinances.

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

CASE NO: C2005-0578 Essie Mae Jackson
605 N. Duss Street
New Smyrna Beach, FL 32168

Violation Location: 605 N. Duss Street

- A. Permitting or causing to be permitted inoperable vehicles upon the subject

- property in violation of §307.4 of the Standard Housing Code, 1997 Edition.
- B. Permitting or causing to be permitted discarded and abandoned waste material upon the subject property in violation of §38-113. of the City Code of Ordinances.

Essie Grayson was sworn for testimony.

Ms. Grayson stated two cars have been removed and the third is still there for sale.

Ms. Kunkle stated this is the same testimony the Board heard last month. Ms. Kunkle stated the City would not object if the Board wishes to continue this case until the November 15th, 2005 hearing providing the owner is actively attempting to sell the vehicle.

Ms. Grayson stated there is a “For Sale” sign in the car but she has not advertised.

Susan Ellis made a motion to continue this case until the November 15th, 2005 hearing; seconded by John Shelby. Motion passed unanimously on roll call vote 7-0.

NEW BUSINESS:

CASE NO: C2005-0344

Daniel C. & Michelle W. Troian
315 Due East
New Smyrna Beach, FL 32169

Violation Locations: 310 Lincoln Avenue
102 N. Pine Street
1100 Dougherty Street
1502 S. Riverside Drive
1110 Live Oak Street
708 Palmetto Street
213 Kirkland Drive
808 Maralyn Avenue
1405 Southard Avenue
405 S. Cooper Street **(Duplex)**
406 Lincoln Avenue
202 Turnbull Bay Road
1500 S. Riverside Drive
1105 Palmetto Street
1003 Live Oak Street
409 Magnolia Street **(Duplex)**

520 S. Peninsula Avenue
1424 Southard Avenue
1411 Southard Avenue
1702 S. Riverside Drive

- A. Daniel and Michelle Troian failed to pay the required occupational tax to include all rental units listed above. Daniel and Michelle Troian were made aware of the violation on the 14th day of May 2005 as of the 21st day of September 2005 the said parties have not upgraded the occupational license in violation of §74.147. of the City Code of Ordinances.

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

Ms. Bobelak stated Mr. Troian had submitted the paperwork to update his Occupational License and the Fire Marshal is scheduling inspections for the properties in order to get approval. Ms. Bobelak recommended the continuance of this case until the November 15th, 2005 hearing.

Ms. Kerrigan asked Staff why Mr. Troian had not renewed his Occupational License.

Ms. Bobelak stated Mr. Troian has purchased more property since his original Occupational License was issued and has not updated to include all the properties.

Carol Kerrigan made a motion to continue this case until the November 15th, 2005 hearing; seconded by Jay Crocker. Motion passed unanimously on roll call vote 7-0.

CASE NO: C2005-0521

John Burke
130 Riverside Drive
Ormond Beach, FL 32174

Violation Location: 506 Old Minorcan Trail

- A. Clear the subject property of all weeds and undergrowth in violation of §38-111. of the City Code of Ordinances.

Chairperson Hawk stated for the record there was no one present to represent this case.

Ms. Bobelak stated the City did not have jurisdiction.

DISCUSSION:

No discussion.

ADJOURNMENT:

There being no further business Chairperson Hawk stated the meeting was adjourned. All agreed and the Board adjourned at 5:02 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