

MINUTES
CITY OF DAYTONA BEACH
CODE ENFORCEMENT BOARD

December 8, 2016

The meeting of the CODE ENFORCEMENT BOARD was called to order by Chairman Mary Louise "Weegie" Kuendig at 9:02 a.m. on Thursday, December 2016, in City Commission Chambers, 301 S. Ridgewood Ave., Daytona Beach, Florida.

Members present:

Ms. Mary Louise "Weegie" Kuendig
Mr. Neil Harrington
Ms. Cheryl House
Ms. Tuner Hymes
Mr. Thomas A.D. Jones
Mr. Donald Smart
Mr. Vernon Weatherholtz

Mr. Charles Cino, Esquire, Board Attorney.

Staff present:

Mr. Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Supervisor
Mr. Tom Clig, Code Inspector
Mr. Michael Fitzgerald, Code Inspector
Mr. Daniel Garcia, Code Inspector
Mr. Clifford Recanzone, Code Inspector
Mr. John Stenson, Code Inspector
Mr. Denzil Sykes, Code Inspector
Mrs. Aimee Hampton, Board Secretary

Approval of the Minutes by: Mary "Weegie" Kuendig Chairman

Ms. Hampton called the Roll and noted all members were present.

Ms. Kuendig asked for a motion to approve the November 10, 2016 Minutes. Mr. Harrington motioned the same with Mr. Smart seconding. Motion approved (7-0).

Ms. Kuendig asked if there was any ex-parte communication. There was no disclosure of ex-parte communication.

Ms. Kuendig asked if there were any announcements. Ms. Hampton made the following announcements:

CASE NO 5 CEB 09-16-47 - Pelican Bay Golf Club, LLC is cited for failure to correct violations of The Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.7, 303.1, 303.2, 304.4, 304.10), at **350 Pelican Bay Drive** - Violation(s) – Dirty pool; dilapidated fence and stairs - First Notified – 6/15/2016

COMPLIANCE 12/1/2016

CASE NO 7 CEB 12-16-68 - William D. & Rebecca Manson is cited for failure to correct violations of The Land Development Code, Art. 3 Sec. 4.S.1, at **132 Gull Circle North** - Violation(s) – No building permit for roof added over front door - First Notified – 8/17/2016

COMPLIANCE 12/5/2016

CASE NO 8 CEB 12-16-69 - Paula Courtney Pritchard is cited for failure to correct violations of The Land Development Code, Art. 6 Sec. 2.H.7.a, at **1162 Peachtree Road** - Violation(s) – Trailer parked illegally -First Notified – 10/3/2016

COMPLIANCE 11/10/2016

Ms. Hampton swore in members of staff for testimony.

Ms. Kuendig announced the procedure of the meeting.

CASE NO 1 CEB 10-16-53 - Daytona Ocean Rentals LLC is cited for failure to correct violations of The Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 504.3, 308.1, and 304.10), at **613 Braddock Avenue** - Violation(s) – Lack of required water services; infestation; dilapidated balcony First Notified – 9/2/2016

Respondent was not present.

Mr. Jackson stated the property was in non-compliance and staff was requesting a fine be imposed of \$500 per day to a maximum of \$25,000.

Mr. Weatherholz asked if people were still residing there.

Mr. Jackson called Inspector Stenson for testimony.

Mr. Stenson stated individuals are still living in the property. Mr. Stenson stated the balcony has not gotten any worse and utility services have not been reinstated.

Mr. Harrington asked if the balcony is dangerous.

Mr. Stenson stated it was not a danger at this time.

Mr. Kuendig asked about the jurisdictions for the city or state to do the rental inspection. Ms. Kuendig wanted to know if the Board can ask if the fire department can do an inspection.

Discussion was held regarding submitting a letter to the City Manager regarding putting resources to this property.

Board Action

Mr. Harrington asked for a motion to impose a fine against the Respondent in the amount of \$1,000 per day effective December 8, 2016 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$25,000 and further provide a letter to City Manager asking for all available resources to be put towards bring this property into compliance. Mr. Weatherholz seconded the motion and it was approved (7-0).

CASE NO 2 CEB 11-16-65 - Clarence & Beverly A. Mallory is cited for failure to correct violations of The Land Development Code, Art. 6 Sec. 6.19.A.3; Art. 9 Sec. 9.2.A (Ref. FBC Supp 302.7, 304.7, 302.7, 304.13, 304.15, and 304.18), at **545 Van Ness Street** - Violation(s) – Outside storage; damaged fencing; damaged roof; dilapidated accessory structure (water feature); broken windows; damaged exterior doors; unsecured property; fire damage - First Notified – 9/26/2016

Respondent was not present.

Mr. Jackson stated the Inspector reports he has had recent contact from the owners and some changes are being made at the property. Mr. Jackson stated there appears to be a restoration company working on bringing the property into compliance.

Mr. Stenson stated the case began as a citizen complaint with all the windows being broken on first and second floor. Mr. Stenson stated a restoration company has now secured the entire first floor and he has been in contact and they are going to be working on the violations.

Mr. Garcia stated the property ownership looks to be in limbo and either in foreclosure or in pre-foreclosure which typically happens when a restoration company begins working on securing and correcting the violations of the property.

Board Action

Ms. Kuendig asked for a motion to amend the previous order of non-compliance to allow the Respondent until January 4, 2017 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. Mr. Smart motioned the same with Ms. House seconding. Motion approved (7-0).

CASE NO 3 CEB 09-16-49 - GM Daytona 2000, LLC is cited for failure to correct violations of The Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.2, 304.6, 304.8); Art. 6 Sec. 6.14.E; Art. 6 Sec. 6.14.G., at **157 Atlantic Avenue** - Violation(s) – Peeling/fading paint; exterior walls; exterior decorative features; rear and side walls need to be repaired and painted; view through show windows into vacant building reveal cluttered and unmaintained interior. - First Notified – 3/24/2016

Mr. Steven Van Arnum came forward and was sworn.

Mr. Jackson stated the last report was the hurricane had delayed the contractor from being able to finish the painting. Mr. Jackson stated the status is they have started the painting but it is not complete as of yet. Mr. Jackson stated staff was willing to amend the compliance date to the next cut-off date.

Mr. Fitzgerald stated the painting can be done within the next 3 weeks. Mr. Fitzgerald stated there is paper up on the windows so you cannot see the work being done inside.

Mr. Van Arnum stated he was the contractor for the property owner and they have started the paint primer and color on the property. Mr. Van Arnum stated he is bringing scaffolding over to be able to paint the top of the building. Mr. Van Arnum stated with the weather and emergency hurricane work he was delayed with finishing the project.

Board Action

Ms. Kuendig asked for a motion to amend the previous order of non-compliance to allow the Respondent until January 4, 2017 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. Mr. Smart motioned the same with Ms. Hymes seconding. Motion approved (7-0).

CASE NO 4 CEB 11-16-59 - John Revelle is cited for failure to correct violations of The Land Development Code, Art. 3 Sec. 3.4.S.1; 3.4.S.2; 3.4.S.3; City Code Ch. 90 Sec. 90-297, at **508 Butler Blvd** - Violation(s) – No permit for demolition of garage and exterior sheeting; failure to obtain business tax receipt (BTR) - First Notified – 7/28/2016

Respondent was not present.

Mr. Jackson stated the property remained in non-compliance and staff was asking for a fine of \$200 per day be imposed.

Mr. Fitzgerald stated the house was occupied and stated the violation are for building without a permit. Mr. Fitzgerald stated the front porch was rebuilt and they also did electrical work all without a permit. Mr. Fitzgerald stated he issued a stop work order. Mr. Fitzgerald stated did hear from someone last week who stated they were going to get a contractor and pull permits but nothing has been done as of yet.

Board Action

Ms. Kuendig asked for a motion to impose a fine against the Respondent in the amount of \$500 per day effective December 8, 2016 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$20,000 plus a one-time administrative fine of \$250.00 for no business tax receipt (BTR). Mr. Harrington motioned the same with Ms. House seconding. Motion approved (7-0).

CASE NO 6 CEB 12-16-67 - Southeastern District of the Christian & Missionary Alliance is cited for failure to correct violations of The Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.7, 304.1, 304.7, and 304.13), at **1250 Beville Road** - Violation(s) – Dilapidated shed, gutter and unsecured vent -First Notified – 9/12/2016

John Trost came forward and was sworn. Mr. Trost stated he was the real estate broker representing the property for sale and is appearing on behalf of the owner.

Mr. Jackson stated the property was in non-compliance and staff was recommending a compliance date of the next cut-off for compliance. Mr. Jackson read a letter from Mr. Trost that was submitted to Inspector Garcia.

Mr. Garcia stated the building is secured and the property is registered with the trespass arrest site program. Mr. Garcia stated it was in the rear of the building where the homeless were congregating.

Mr. Trost stated the trespass signs have been posted and the building has some flaking paint and a bit of roof damage. Mr. Trost stated the closing is scheduled for July.

Mr. Garcia stated the vents needed to be secured and closed and the gutters were hanging and they removed that. Mr. Garcia stated if they want to demolish the shed it would put the property into compliance.

Board Action

Ms. Kuendig asked for a motion to find the Respondent in non-compliance and order the Respondent come into compliance by January 4, 2017 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. Ms. Hymes motion the same with Mr. Weatherholz seconding. Motion approved (7-0).

CASE NO 9 CEB 12-16-70 - Principle Eagle Capital, LLC is cited for failure to correct violations of The Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.2, 304.6, and 304.10), at **202 S. Seneca Blvd.** - Violation(s) – Peeling, flaking, chipped paint, holes, breaks and loose or rotting materials on all exterior walls/surfaces; exterior stairs are not attached, structurally sound or in good repair -First Notified – 7/2/2016

Respondent was not present.

Mr. Jackson read a letter issued from Mr. Trovato who advised he had a court hearing conflict for today's meeting. Mr. Trovato's letter also provided information about what he was going to do to bring the property into compliance.

Mr. Garcia stated the owner has a nephew who is a contractor and plans on working on the property.

Board Action

Ms. Kuendig asked for a motion to find the Respondent in non-compliance and order the Respondent come into compliance by January 4, 2017 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. Mr. Smart motion the same with Ms. Hymes seconding. Motion approved (7-0).

CASE NO 10 CEB 12-16-71 - Sondra Sue Lawrence is cited for failure to correct violations of The Land Development Code, Art. 6 Sec. 2.H.7.a.1; Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2; Art. 5 Sec. 5.2.B.3.F., at **301 Golf Blvd.** - Violation(s) – Parking on the grass; Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. -First Notified – 9/10/2016

Ms. Nancy Koenig, property manager came forward and was sworn.

Mr. Geddy Peer came forward and was sworn. Mr. Peer stated he was the tenant.

Mr. Jackson reviewed the land development code with regard to short term rentals with the Board. Mr. Jackson stated the Respondent was previously in non-compliance but now in compliance.

Mr. Weatherholz asked how the property was verified the property is in compliance.

Mr. Clig stated he had a signed affidavit stating he was not renting short term and the facebook ad was removed.

Ms. Koenig stated the facebook ad is not advertising for short term rentals it is advertising for a roommate and was never rented out short-term.

Ms. Kuendig read the facebook advertisement for a roommate which did not say short term.

Mr. Peer stated he has never rented short term and he has lived there for over a year. Mr. Peer stated the lease started a lease of January two years ago. Mr. Peer stated the parking was a gravel area and the pictures were over a year ago and he stated the vehicles were parked on the gravel but they just need to use weed killer so you can see the gravel.

Ms. House asked how many renters were present.

Mr. Clig stated he was aware of 2 residents. Mr. Clig stated he believed the ad could mean different roommates every month. Mr. Clig stated it was a neighborhood complaint.

Mr. Jones stated he did not believe they were in non-compliance with the short term rentals.

Board Action

Ms. Kuendig asked for a motion to find the Respondent previously in non-compliance with regard to the parking issue but currently in compliance and for any future repeat violation be returned to a subsequent meeting for consideration of fine up to \$5,000 per occurrence. Mr. Smart motioned the same with Mr. Weatherholz seconding. Motion approved (7-0).

Ms. Kuendig asked for a motion that the board found no violations with regard to the short term rental. Mr. Harrington motioned the same with Mr. Jones seconding. Motion approved (7-0).

CASE NO 11 CEB 12-16-72 - Equity Trust Co FBO Donna O'Connor IRA is cited for failure to correct violations of The Land Development Code, Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **910 N. Grandview Avenue** - Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accomodations" are not a permitted use in the zoning district. -First Notified – 9/21/2016

Respondent was not present.

Mr. Jackson stated the violations were for short term rentals and they were previously in non-compliance and currently in compliance and staff was just asking for a finding of non-compliance.

Board Action

Ms. Kuendig asked for a motion to find the Respondent previously in non-compliance but currently in compliance and for any future repeat violation be returned to a subsequent meeting for consideration of fine up to \$5,000 per occurrence. Ms. Hymes motioned the same with Mr. Smart seconding. Motion approved (7-0).

CASE NO 12 CEB 12-16-73 - Dune Ranch, LLC is cited for failure to correct violations of The Land Development Code, Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **710 N. Oleander Avenue** - Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accomodations" are not a permitted use in the zoning district. -First Notified – 9/20/2016

Respondent was not present.

Mr. Jackson stated the violations were for short term rentals and they were previously in non-compliance and currently in compliance and staff was just asking for a finding of non-compliance.

Board Action

Ms. Kuendig asked for a motion to find the Respondent previously in non-compliance but currently in compliance and for any future repeat violation be returned to a subsequent meeting for consideration of fine up to \$5,000 per occurrence. Mr. Smart motioned the same with Mr. Weatherholz seconding. Motion approved (7-0).

Mr. Jones stepped away at 10:20 a.m.

CASE NO 13 CEB 12-16-74 - Charles S. Alexander, Jr. is cited for failure to correct violations of The Land Development Code, Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **830 N. Wild Olive Avenue** - Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accomodations" are not a permitted use in the zoning district. -First Notified – 9/20/2016

Respondent was not present.

Mr. Jackson stated the violations were for short term rentals and they were previously in non-compliance and currently in compliance and staff was just asking for a finding of non-compliance.

Board Action

Ms. Kuendig asked for a motion to find the Respondent previously in non-compliance but currently in compliance and for any future repeat violation be returned to a subsequent meeting for consideration of fine up to \$5,000 per occurrence. Mr. Smart motioned the same with Mr. Harrington seconding. Motion approved (7-0).

Mr. Jones returned at 10:23 a.m.

CASE NO 14 CEB 12-16-75 - Jason Tatge & Crystal L. Coron is cited for failure to correct violations of The Land Development Code, Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **935 N. Wild Olive Avenue** - Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accomodations" are not a permitted use in the zoning district. -First Notified – 9/20/2016

Crystal Coron and Jason Tatge came forward and was sworn.

Mr. Jackson stated the violations were for short term rentals and they were previously in non-compliance and currently in compliance and staff was just asking for a finding of non-compliance.

Ms. Coron stated the mother-law-suite in the back is what they were planning on renting. Ms. Coron stated they live in the main house.

Anita Gallentine came forward and was sworn. Ms. Gallentine stated she is a resident and co-chair of the Seabreeze University neighborhood group. Ms. Gallentine stated the short-term rentals are becoming an issue and have a negative impact on the neighborhood.

Discussions were held about if the property was being advertised and if the advertisements were removed.

Board Action

Ms. Kuendig asked for a motion to find the Respondent previously in non-compliance but currently in compliance and for any future repeat violation be returned to a subsequent meeting for consideration of fine up to \$5,000 per occurrence. Mr. Smart motioned the same with Ms. Hymes seconding. Motion approved (7-0).

Miscellaneous Business

1. A woman was in the audience saying she was supposed to be on the Agenda but now the case is not so she needs to talk with the code inspector.
2. Discussions were held regarding Air B&B and the violations occurring in the beachside area.

Adjournment

The meeting was adjourned at 10:51 a.m.