

**CODE ENFORCEMENT BOARD
MEETING
DECEMBER 15, 2011**

MEMBERS PRESENT: Gloria Sepanik, Chairman
Norman Ashworth, Charles Council, Carol Perry,
Vic Poitras, Joyce Thompson, Ed Viola

OTHERS PRESENT: Teri Tubbs, Zoning Official; Stephen Rees, Jr., Acting City Attorney;
Maricela Perdomo, Randy Wright, Dawn Lewis, Code Compliance
Officers; Tracy Quintana, Public Works Department Executive
Assistant; David McCarty, Code Compliance Coordinator; Linda
Dutcher; Simon Jacobson

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting – January 25, 2012
- C. Discussion – November & December 2012 Hearing Dates
 - Ms. Sepanik questioned members’ feelings with regard to rescheduling the last two Board meetings of 2012 due to potential conflicts with the Thanksgiving and Christmas holidays. She noted staff had provided options in the Board’s agenda material for members’ consideration.
 - Consensus of the Board was to maintain the regularly scheduled meeting date of November 28, 2012.
 - Discussion then ensued with regard to rescheduling the following month’s meeting to December 11, 2012.
 - Ms. Perry pointed out same would allow only two weeks between the November and December 2012 meetings.
 - Ms. Teri Tubbs, Zoning Official, suggested the Board consider meeting on December 17, 2012.
 - Consensus of the Board was approval of same.

APPROVAL OF MINUTES

- A. Meeting of November 15, 2011
 - Mr. Viola MOVED, Mr. Council SECONDED approval of the November 15, 2011 minutes.
MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Smith swore in all participants.
- A. Discussion – Memo from City Attorney on Code Case Costs
 - Ms. Tubbs stated at the Board’s request, City Attorney David Levin had researched State Statutes with regard to recovering costs incurred by the City in prosecuting violations of City Code. She announced if the City prevailed in such a case, actual costs could be recovered; however, it would not be permissible to charge a flat fee. She summarized City Attorney Levin had developed formulas for the various types of cases heard by the Board.
 - Mr. Council asked if staff costs were based on time or hourly increments.
 - Ms. Tubbs replied she did not believe so; however, she had not spoken with the City Attorney specifically regarding same.
 - Mr. Poitras inquired if costs would be limited to mailings.
 - Ms. Tubbs replied the majority of the City’s costs were related to mailings and copies, for example, acknowledging many other costs could not be recovered such as staff time. She advised the City Attorney would be present at the Board’s next meeting. She explained a checklist would be utilized in each case, which would provide the Board with specific amounts of costs actually incurred. She displayed the proposed spreadsheet, providing a detailed review of same. She then introduced Mr. Stephen Rees, Jr., attorney, explaining he was present in City Attorney Levin’s stead due to a conflict.
- B. Request for Fine Reduction
 - 10-41215 – ZONING OFFICIAL – TERI TUBBS
 - Respondent: Bank of America, N.A.
 - Requestor: Robert & Linda Dutcher
 - Address of Violation: 1021 Francesca Court
 - Violation of Chapter 9A, Section 9A-17, Failure to submit a Distressed Real Property Registration form.
 - Ms. Tubbs attested as to the Notices and Orders which had been sent and received relative to this case, dating back to September 2011, announcing the Board had imposed a fine on February 23, 2011, in the amount of \$11,750, representing \$250 per day for 47 days of non-compliance. She mentioned there had been no response from Bank of America, respondent, to any of the City’s numerous mailings. She continued on November 10, 2011, the City received the required form as well as the \$100 registration fee; however, both were submitted by the requestor as opposed to the respondent, against which the fine had been imposed. She explained the requestors were currently under contract to sell the property as a short sale, adding

- Bank of America refused to pay any portion of the fine. She concluded the respondents were requesting an opportunity to sell the home and address the fine.
- Ms. Sepanik drew members' attention to the requestors' written request for a fine reduction, as delineated in the agenda material, reading same into the record.
 - Ms. Linda Dutcher, requestor, stated she had been working with a realtor to sell the property since 2007, maintaining Bank of America had been uncooperative throughout. She gave a detailed description of events leading to the loss of their home, stating she was financially unable to take care of the property.
 - Ms. Sepanik asked if Ms. Dutcher had been aware of the \$100 registration fee.
 - Ms. Dutcher replied in the negative, explaining she and her husband, Mr. Robert Dutcher, requestor, had vacated the home in January 2007 upon receipt of a foreclosure notice from Bank of America.
 - Ms. Thompson inquired if notices were typically sent to the inhabitants of a home as well as to the mortgage holder in cases involving properties going through foreclosure.
 - Ms. Tubbs replied in the negative, explaining the mortgage holder was responsible for submitting the registration form along with the \$100 fee.
 - Mr. Viola inquired if staff had been contacted by Bank of America.
 - Ms. Tubbs replied not regarding this particular case; however, Bank of America had adhered to this Code requirement for other properties for which they held a mortgage.
 - Mr. Council opined the respondent, not the requestors, should be present.
 - Mr. Viola concurred.
 - Mr. Poitras added the requestors were not responsible for the fine, asking Ms. Dutcher if she had found a buyer for the home.
 - Ms. Dutcher replied affirmatively, stating the closing was scheduled for December 16, 2011; however, if the fine issue was not settled this date, the sale would not be finalized as Bank of America had refused to pay any part of same.
 - Ms. Perry asked how Ms. Dutcher learned of the \$100 registration fee.
 - Ms. Dutcher replied through her real estate agent.
 - Mr. Council clarified the registration fee and the previously imposed fines were two different matters. He commented the City's only recourse was to pursue a lien against the property, asking if there was another methodology which would put the onus on the mortgage holder in these situations in the future. He agreed the Dutchers were at the mercy of a recalcitrant large banking organization.
 - Mr. Ashworth asked if Bank of America planned to pursue the difference between the short sale amount and the remaining balance owed on their mortgage from the Dutchers.

- Ms. Dutcher replied in the negative, explaining a program had been developed which would provide such relief.
- Mr. Ashworth inquired if the mortgage holder could be sued for violating the City's ordinances.
- Mr. Rees replied the proper mechanism was the lien process, acknowledging same placed the homeowner in a difficult position.
- Mr. Ashworth expressed frustration with regard to the lack of response from Bank of America, particularly if the Board opted to reduce the fine for the sake of the Dutchers.
- Mr. Rees commented he would have to research State Statute with City Attorney Levin to determine if another remedy existed.
- Ms. Thompson questioned whether any Board action this date would be sufficient from a timing standpoint to allow the Dutchers' closing to proceed.
- Mr. Rees opined the Board's Order would suffice.
- Ms. Thompson urged the City to take the appropriate action. She asked if the short sale was guaranteed to be finalized the following day.
- Ms. Dutcher replied affirmatively, contingent upon the outcome of this hearing.
- Mr. Poitras MOVED, Mr. Ashworth SECONDED to approve the request for fine reduction from \$11,750 to \$0; upon payment, the City shall issue a Satisfaction of Lien to be recorded by the requestor/respondent at their sole cost and expense; the requestor/respondent to submit a recorded deed to the City showing the sale of the property within 5 days; if the requestor/respondent failed to submit same, the City shall have the right to reinstate the original fine amount of \$11,750 and to record a new lien against the requestor's/respondent's property. MOTION CARRIED UNANIMOUSLY.

Note: Items C and D were heard following Item E.

C. 11-44794 – ZONING OFFICIAL – TERI TUBBS

Respondent: Sunoco

Address of Violation: 10001 Tamiami Trail

Violation of Chapter 15, Section 15-19(c)(3)(4), Unpaid false alarm fees.

- Ms. Sepanik noted the respondent was not present, confirming there was no objection to entering a not guilty plea on their behalf.
- Ms. Tubbs announced this case only involved a failure to pay false alarm fees. She provided the dates and times of the false alarms, noting statements had been issued and received by the respondent. She advised fines remained outstanding as of this date.
- Ms. Perry MOVED, Mr. Council SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.

- Mr. Ashworth MOVED, Mr. Viola SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the violation to be eliminated within 10 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

D. 11-44968 – ZONING OFFICIAL – TERI TUBBS

Respondent: Home Depot

Address of Violation: 3941 Tamiami Trail

Violation of Chapter 15, Section 15-19(c)(3)(4), Unpaid false alarm fees.

- Ms. Sepanik noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on their behalf.
- Ms. Tubbs provided the dates and times of the false alarms, noting statements had been issued and received by the respondent. She advised fines remained outstanding as of this date.
- Ms. Perry MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Ashworth MOVED, Mr. Viola SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the violation to be eliminated within 10 days of receipt of the Board's Order subject to a fine of up to \$250 per day.
- Ms. Tubbs confirmed the false alarms had occurred after regular store hours.
- MOTION CARRIED UNANIMOUSLY.

Note: Item E was heard following Item B.

E. 11-44763 – CODE COMPLIANCE OFFICER – MARICELA PERDOMO

Respondent: Simon & Sheina Jacobson

Address of Violation: 455 West William Street

Violation of Chapter 7, Section 7-32(a)(1); and Chapter 26, Section 26-1.5; and Chapter 26, Section 26-6.1, Wood structure and concrete slab installed on the property without a permit.

- Ms. Maricela Perdomo, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, submitting same into the record as evidence. She stated on October 27, 2011, she received a complaint regarding a wood and lattice structure erected on a concrete slab without proper permitting, noting the permit had been in rejection since July 11, 2011, due to missing specifications and paperwork. She explained a Notice of Violation was issued on October 13, 2011, and received on November 2, 2011, after which Mr. Simon Jacobson, respondent, telephoned her to state the lattice had been removed and the paperwork would be

submitted the following day; however, on November 17, 2011, she confirmed the required corrections to the permit application had not been submitted. She advised a Notice of Hearing was issued and received on November 23, 2011. She concluded an inspection made on December 12, 2011, indicated all violations were eliminated.

- Mr. Viola MOVED, Mr. Ashworth SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Jacobson requested he be allowed to erect the structure for two to three weeks each year in the future as it was a religious requirement. He explained he had done so every year for the past six years, which always generated complaints from his neighbors.
- Ms. Tubbs replied City Code did not prohibit the structure itself but rather a building permit was necessary.
- Mr. Jacobson interjected permitting entailed excessive costs.
- Mr. Rees advised this Board's duty was only to determine whether or not a violation existed and/or was corrected.
- Ms. Sepanik noted if the Board issued a Cease & Desist Order and the violation was repeated in the future, the daily fines would increase.
- Mr. Jacobson stated he understood the violation was related to the unpermitted slab as opposed to the structure itself, adding he had never been cited for the latter.
- Ms. Thompson asked if Mr. Jacobson could obtain a temporary permit.
- Ms. Tubbs replied a temporary use permit was available for \$100; however, she expressed concern with regard to the City's liability if staff could not confirm the structure's soundness. She offered to meet with Mr. Jacobson and the Building Official after this meeting.
- Mr. Council MOVED, Mr. Ashworth SECONDED to find the violation had been eliminated and to issue a Cease & Desist Order for any future violations subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

Note: Item F was heard following Item D.

F. 11-44592 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: Robert S. Imperi

Address of Violation: 419 Burland Street

Violation of Chapter 7, Section 7-38, and Chapter 26, Section 26-8.11(a)(b), Improper roofing materials installed, missing and/or broken windows, missing soffit; Chapter 26, Section 26-8.11(g), and Chapter 9A, Section 9A-12(a), Outside storage of miscellaneous items; Chapter 9A, Section 9A-12(d), 2 Unlicensed and inoperative

vehicles; Chapter 26, Section 26-8.11(c)(e)(f), and Chapter 10, Section 10-1.1, Tall grass and/or weeds and dense growth of trees.

- Ms. Sepanik noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on his behalf.
- Mr. Randy Wright, Code Compliance Officer, displayed several photographs of the subject property, located within City limits, stating he originally inspected the property on October 11, 2011, and had discovered the violations outlined above. He stated he posted the property on November 9, 2011, adding a Notice of Violation was received on November 12, 2011; however, as of November 13, 2011, none of the violations had been corrected. He confirmed the property had been vacant for a year and a half.
- Ms. Perry MOVED, Mr. Poitras SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Ms. Perry confirmed the notices had been sent to the owner in Michigan.
- Mr. Council MOVED, Mr. Poitras SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the violation to be eliminated within 10 days of receipt of the Board's Order subject to a fine of up to \$250 per day.
- Ms. Perry opined 10 days was not reasonable, suggesting perhaps 30 days.
- Mr. Wright stated the property had been sitting vacant for more than a year, opining the respondent did not intend to bring the property into compliance.
- Ms. Perry concluded the motion was acceptable as stated.
- MOTION CARRIED UNANIMOUSLY.

G. 11-44818 – CODE COMPLIANCE OFFICER – RANDY WRIGHT

Respondent: Punta Dorada Phase VIII, LLC

Address of Violation: 7400 South Tulip Tree

Violation of Chapter 10, Section 10-1.1; and Chapter 26, Section 26-8.11(c)(e), Dense wild overgrowth of trees, underbrush and weeds on the property.

- Ms. Sepanik noted the respondent was not present, confirming there was no objection to entering a plea of not guilty on their behalf.
- Mr. Wright displayed several photographs of the subject property, located within City limits, stating he inspected the property on November 3, 2011, and found the violations outlined above. He continued a Notice of Violation was mailed to the respondent and received on November 4, 2011. He stated staff re-inspected the property on November 21, 2011, and observed no violations had been corrected. He explained a Notice of Hearing was mailed and received on November 23, 2011. He attested he had re-inspected on December 13, 2011, and the violations remained.

- Ms. Perry MOVED, Mr. Council SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
- Mr. Poitras MOVED, Mr. Ashworth SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations and to require the violation to be eliminated within 14 days of receipt of the Board's Order subject to a fine of up to \$250 per day. MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. Hearing Imposing Penalty

11-44242 – CODE COMPLIANCE OFFICER – DAWN LEWIS

Respondent: Residential Credit Solutions, Inc.

Address of Violation: 2330 Via Veneto

Violation of Chapter 9A, Section 9A-17(f), Failure to submit a Distressed Real Property Registration form.

- Ms. Dawn Lewis, Code Compliance Officer, reported the Board originally heard this case on October 6, 2011, adding as of November 11, 2011, there had been no change. She summarized there had been 34 days of non-compliance with the Board's Order.
- Mr. Ashworth MOVED, Ms. Perry SECONDED to impose a fine of \$8,500, representing a daily fine of \$250 for 34 days of non-compliance. MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- Ms. Tracy Quintana, Public Works Department Executive Assistant, requested members spread the news about the newly created Citizens Academy.
- Ms. Sepanik questioned the number of applicants to be selected.
- Ms. Quintana replied 30 per session, stating the winter session would commence on January 10, 2012, and the summer session on May 15, 2012.

ADJOURNMENT

- Meeting Adjourned: 10:26 a.m.

Gloria Sepanik, Chairman

Karen Smith, Recording Secretary