

**CITY OF TEMPLE TERRACE, FLORIDA  
MUNICIPAL CODE ENFORCEMENT BOARD  
MINUTES**

**Regular Meeting  
Wednesday, February 10, 2010  
Council Chambers – City Hall**

The regular meeting of the Municipal Code Enforcement Board was held on Wednesday, February 10, 2010 in the Council Chambers at City Hall.

**PRESENT WERE:** Chairman David A. Pogorilich and Board Members Rick Gibson, Maura Lear, William Newkirk, James Ruyle, and Michael Urbas. **ABSENT WAS:** Board Member Richard Schmidt.

**ALSO PRESENT WERE:** Attorney for the City Jenay Iurato, Attorney for the City Cate O’Dowd, Deputy City Clerk Donna Spano, Code Compliance Director Joe Gross, Code Compliance Officers Tom Borroni, Jack Knowles and Sal Scrozzo, Code Compliance Secretary Shana Hunt, Carl Kirchendorfer, Sandra Loyle, Doug Reeves, Tammy Schueing, and several other persons.

Chairman Pogorilich called the meeting to order at 7:00 p.m. and, following the Pledge of Allegiance to the flag, outlined the procedures the Board would follow. All persons wishing to give testimony were sworn in by the Deputy City Clerk.

Noting the presence of interested parties, Chairman Pogorilich confirmed with Attorney Iurato that cases with interested parties present would be heard first.

**HEARINGS:**

**CASE NO. 09-2527 – City versus Christie-Ann and Carl C. Kirchendorfer - 11309 Linbanks Place - Section – 25.750.4 – Material and Equipment Storage in Residential Zoning Districts.**

Attorney Iurato introduced the case explaining that last month she requested the Board continue this case so her office could look further into possible conflict of interest issues. She stated her office determined that they have a conflict in prosecuting this case; therefore, Code Compliance Director Gross will be prosecuting this case on his own. Attorney Iurato asked that any questions with respect to this case be directed to Code Compliance Director Gross. Chairman Pogorilich reiterated that the Board will be going forward with the case without benefit of Counsel and Attorney Iurato confirmed that was correct.

Code Compliance Director Gross confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. Code Compliance Director Gross, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violation was served to the alleged violators. He provided testimony and submitted photographic evidence of the alleged subject violation, labeled Exhibit 1, which the Board accepted, establishing a violation of Code Section 25.750.4. Code Compliance Director Gross introduced an Affidavit of Compliance, dated January 5, 2010, which the Board accepted. The respondent was present; he stated he believed Code Compliance Director Gross covered everything very well in his presentation.

Based on the testimony of Code Compliance Director Gross, and the documentary evidence received by the Board, upon motion of Board Member Lear, seconded by Board Member Urbas, the Board **FOUND Christie-Ann and Carl C. Kirchendorfer, in Case No. 09-2527 to be GUILTY** of violating **Section 25.750.4** of the City Code, but because the property was brought into compliance before the date of this

hearing, **NO FINE** was assessed. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting “aye”, no “nay”. Board Member Richard Schmidt was absent and did not vote.

**CASE NO. 09-2549 – City versus Brian K. and Charles C. Fields and Sandra W. Fields Loyle - 327 Belle View Avenue - Section 25.750.4 - Material and Equipment Storage in Residential Zoning Districts.**

Attorney Iurato introduced the case and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. Code Compliance Director Gross, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violation was served to the alleged violators. He provided testimony establishing a violation of Code Section 25.750.4. The Respondent, Sandra W. Fields Loyle, was present and thanked Code Compliance Director Gross for working with them to correct the violation.

Based on the testimony of Code Compliance Director Gross, and the documentary evidence received by the Board, upon motion of Board Member Urbas, seconded by Board Member Newkirk, the Board **FOUND Brian K. and Charles C. Fields and Sandra W. Fields Loyle in Case No. 09-2549 to be GUILTY** of violating **Section 25.750.4** of the City Code, but because the property was brought into compliance before the date of this hearing, **NO FINE** was assessed. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting “aye”, no “nay”. Board Member Richard Schmidt was absent and did not vote.

Noting no more interested parties wishing to be heard under New Hearings, Chairman Pogorilich resumed the agenda order.

**CASE NO. 09-2432 - City versus Natalie Anderson - 105 Deer Park Avenue - Section 8.830(a)(1)- Permits - When Required, 11.120.10 - Owners of Abutting Property to keep Rights-of-Way Clean and Sanitary, 25.755.10 – Duty to Maintain Swimming Pools, and 11.120.9 - Duty to Keep Premises Clean.**

Attorney Iurato introduced the case and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violator. Code Compliance Officer Borroni, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violations was served to the alleged violator. He provided testimony and submitted photographic evidence of the alleged subject violations, labeled Exhibits 1 through 5, which the Board accepted, establishing violations of Code Sections 8.830(a)(1), 11.120.10, 25.755.10 and 11.120.9.

The respondent’s son, Vincent Hernandez, 105 Deer Park Avenue, who was not present at the beginning of the meeting, was sworn in by the Deputy City Clerk. Mr. Hernandez acknowledged and explained the circumstances resulting in the alleged violations stating that while he would like to hire a licensed contractor, he does not have the funding. He commented that he has also had problems with his pool pump and multiple lawn mowers breaking down. He stated he believes much of the debris and litter on his property comes from one of his neighbors, and he will be speaking to the neighbor about this issue.

Mr. Hernandez asked for an extension of thirty (30) days to submit the proper plans and permit applications and a sixty (60)-day extension to have a licensed contractor complete the carport enclosure.

Prior to the motion, Board Member Lear requested verification that the applicant is still out of compliance with all four of the violations, to which Code Compliance Officer Borroni responded affirmatively.

Chairman Pogorilich inquired whether the pool pump is currently broken, to which Code Compliance Officer Borroni also responded in the affirmative. In response to Chairman Pogorilich's further inquiry regarding whether the City has a problem granting the requested sixty (60)-day extension, Code Compliance Officer Borroni detailed past extensions granted, concluding that he believes thirty (30) days would be appropriate.

At the request of Chairman Pogorilich, Code Compliance Officer Borroni gave details regarding enclosing the carport, with respect to the lack of headers and safety issues, as well as an overview of the Building Official's finding with respect to the carport.

Code Compliance Director Gross interjected that he believes it is appropriate to start with a 30-day extension and monitor the respondent's progress; if further extensions become necessary, the Board can determine what is appropriate at that time.

Mr. Hernandez reiterated that money has always been an issue; he gave more details on the carport enclosure, suggesting that there are no structural issues. Chairman Pogorilich interjected that Mr. Hernandez must work with the Building Department to ensure the carport is properly permitted and built to Code.

Board Member Lear explained to Mr. Hernandez that she would be more inclined to grant him future extensions for the permitting and construction, which are costly, if he would correct the violations that cost nothing, such as the overgrown conditions and litter.

Board Member Ruyle stated that the enclosure of the carport is a structural issue and echoed Board Member Lear's suggestion that Mr. Hernandez correct the less expensive violations right away.

Based on the testimony of Code Compliance Officer Borroni and Vincent Hernandez, and the documentary evidence received by the Board, upon motion of Board Member Gibson, seconded by Board Member Newkirk, the Board **FOUND Natalie Anderson, in Case No. 09-2432 to be GUILTY** of violating Sections 8.830(a)(1), 11.120.10, 25.755.10 and 11.120.9 of the City Code, and gave the respondent until **March 10, 2010**, to come into compliance with Code Sections 8.830(a)(1), 11.120.10, 25.755.10 and 11.120.9. If the property does not come into compliance by that date, a fine of **\$200.00** per day shall accrue beginning **March 11, 2010**, until the date the violator provides the City with evidence that the property has been brought into compliance. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting "aye", no "nay". Board Member Richard Schmidt was absent and did not vote.

After the Board's ruling, Mr. Hernandez asked whether the 30-day extension the Board granted was to begin the permit process or complete all of the work, to which Chairman Pogorilich explained the Board's ruling in detail, stating the 30 days includes all the violations being corrected and the work completed. He also advised Mr. Hernandez to stay in touch with Code Compliance Director Gross and to complete as much work as he can prior to the Board's reevaluation of the case next month.

**CASE NO. 09-2729 – City versus Temple Terrace Accounting & Tax, Inc. - Pamela T. Barwick, Registered Agent – 5620 E. Fowler Avenue, Suite D - Section 13.155(a) Local Business Regulations-Annual Review.**

Attorney Iurato introduced the case and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. For the benefit of the new members, Code Compliance Director Gross explained the Local Business Tax program, formerly known as Occupational License, Codes, process and applicable timelines. He also reminded the Board that there is a statutory cap on the fine in Local Business Tax cases. Code Compliance Director Gross, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violation was served to the alleged violators. He provided testimony of the alleged subject violation, establishing a violation of Code Section 13.155(a). The Respondent was not present.

Based on the testimony of Code Compliance Director Gross, and the documentary evidence received by the Board, upon motion of Board Member Lear, seconded by Board Member Urbas, the Board **FOUND Temple Terrace Accounting & Tax, Inc. - Pamela T. Barwick, Registered Agent, in Case No. 09-2729** to be **GUILTY** of violating **Section 13.155(a)** of the City Code, and gave the respondent until **February 24, 2010**, to come into compliance with Code Section **13.155(a)**. If the property does not come into compliance by that date, a fine of **\$50.00** per day shall accrue beginning **February 25, 2010**, until the date the violators provide the City with evidence that the property has been brought into compliance. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting "aye", no "nay". Board Member Richard Schmidt was absent and did not vote.

Prior to the vote on the above motion, Chairman Pogorilich inquired how long the applicant has known about the delinquency, to which Code Compliance Director Gross confirmed that applicant has been aware of the situation since December 31, 2009.

In response to Board Member Urbas, Code Compliance Director Gross stated the statutory cap is approximately 25%, but he does not have the amount of the Local Business Tax; therefore, he cannot give the exact amount. Chairman Pogorilich interjected that the Board members should not worry about the cap at this point in the process.

**CASE NO. 10-0033 - City versus Margie N. King - 7603 Gulf Court - Section 25.760.2(a) – Parking on Residentially-Zoned Property.**

Attorney Iurato introduced the case and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violator. Code Compliance Officer Sal Scrozzo, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violation was served to the alleged violator. He

provided testimony and submitted photographic evidence of the alleged subject violation, labeled Exhibits 1 through 3, which the Board accepted, establishing a violation of Code Section 25.760.2(a). The Respondent was not present.

Based on the testimony of Code Compliance Officer Scrozzo, and the documentary evidence received by the Board, upon motion of Board Member Urbas, seconded by Board Member Gibson, the Board **FOUND Margie N. King in Case No. 10-0033 to be GUILTY of violating Section 25.760.2(a) of the City Code, and gave the respondent until March 10, 2010, to come into compliance with Code Section 25.760.2(a). If the property does not come into compliance by that date, a fine of \$100.00 per day shall accrue beginning March 11, 2010, until the date the violator provides the City with evidence that the property has been brought into compliance.**

Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting “aye”, no “nay”. Board Member Richard Schmidt was absent and did not vote.

Prior to the vote on the above motion, upon Chairman Pogorilich’s inquiry, Code Compliance Officer Scrozzo confirmed that this is not a repeat violation.

Board Member Lear asked Code Compliance Officer Scrozzo to describe the level of communication he has had with the respondent, to which he explained that he has spoken with the respondent several times to no avail. Code Compliance Officer Scrozzo surmised from his conversations with the respondent, that they believe the street is too narrow and do not want to park on it for fear someone will hit their vehicle; since the driveway can only accommodate one vehicle, and the family has three, there is a problem. Code Compliance Officer Scrozzo concluded that he has given the respondent several options to remedy the violation, yet they still have not complied.

Board Member Lear questioned Code Compliance Officer Scrozzo as to why the family does not park in their garage and asked for more detail on the options given to the respondent. Code Compliance Officer Scrozzo stated it is his understanding the garage is a one-car garage that is full of debris; he reiterated they have given the respondent several, inexpensive options, such as using gravel with a border.

Board Member Urbas inquired whether this is a regular occurrence with these three vehicles and whether the vehicles belonged to the residents or to visitors, to which Code Compliance Officer Scrozzo confirmed that this is a common occurrence and explained that all the vehicles belong to residents of the property; there are no visitors’ vehicles in question.

**CASE NO. 10-0057 - City versus Fazio Eye Institute, P.A.-Diane E. Fazio, Owner, Spiegel & Utrera, P.A. - Registered Agent - 5208 East Fowler Avenue - Section 13.155(a) Local Business Regulations-Annual Review.**

Attorney Iurato introduced the case and confirmed with the Deputy City Clerk that the Notice of Violation, Notice of Hearing, and evidence of receipt were part of the record and were properly served on the violators. Code Compliance Officer Jack Knowles, who was duly sworn, provided testimony with respect to the manner in which notification of the alleged violations was served to the alleged violators. He provided testimony establishing a violation of Code Section 13.155(a) and presented an Affidavit of Compliance, dated February 10, 2010. The Respondents were not present.

Based on the testimony of Code Compliance Officer Knowles, and the documentary evidence received by the Board, upon motion of Board Member Lear, seconded by Board Member Ruyle, the Board **FOUND Fazio Eye Institute, P.A.-Diane E. Fazio, Owner, Spiegel & Utrera, P.A. - Registered Agent in Case No. 10-0057** to be **GUILTY** of violating Section 13.155(a) of the City Code, but because the property was brought into compliance before the date of this hearing, **NO FINE** was assessed. Vote on the motion being: Chairman Pogorlich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting “aye”, no “nay”. Board Member Richard Schmidt was absent and did not vote.

**UNFINISHED BUSINESS/PRIOR CASE HEARINGS:**

**Status Report of Compliance/Non Compliance with previously issued ORDERS:**

**CASE NO. 09-0942 – City versus W. Bradley Munroe, Esq., Registered Agent CNLKOR River Chase, LLC - 6900 Aruba Avenue - Section 8.830(a)(1) – Permits.**

Code Compliance Director Gross informed the Board that 97 permits have been pulled, which includes all the buildings, and that 50 of the buildings have been completed. He estimated it would take the applicants approximately 30 to 45 days to complete the project, adding the City supports extending the compliance deadline. Tammy Schueng, representing River Chase Apartments, 6900 Aruba Avenue, provided an update of the progress. She stated that, per their contractor, they expect to have the project completed in 45 days, weather permitting, and she requested another extension.

Upon motion of Board Member Gibson, seconded by Board Member Lear, the Board **extended** the **compliance deadline** in **Case No. 09-0942** until **March 10, 2010**. Vote on the motion being: Chairman Pogorlich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting “aye”, no “nay”. Board Member Richard Schmidt was absent and did not vote.

**CASE NO. 09-1565 – City versus C.R. and Margaret Mitchell - 11713 and 11717 Unicorn Road - Section 25.515 – Uses Permitted – Zoning.**

Attorney Iurato submitted an Affidavit of Compliance dated February 2, 2010, which the Board accepted.

**CASE NO. 09-1966 – City versus Fadi Mubarak, Registered Agent, Metro Tampa, LLC - 10821 N. 56<sup>th</sup> Street - Sections 11.120.9 – Sanitation – Duty to Keep Premises Clean, 11.130.7(b) – Unauthorized Accumulation, 28.840(a)(10) – Minimum Standards – Accessory Structures, 28.840(a)(11) – Minimum Standards – Miscellaneous Elements, 28.840(b)(1) – Minimum Standards – Exterior Storage, and 28.840(d)(2) – Minimum Standards – Parking Lot Surface.**

Attorney Iurato noted that the compliance deadline is today, and Code Compliance Director Gross would like to give an update on this case. Code Compliance Director Gross reminded the Board this case involves the shopping center adjacent to the 7-Eleven. He submitted an Affidavit of Compliance, dated February 10, 2010, for Sections 11.120.9, 11.130.7(b), 28.840(a)(10) and 28.840(b)(1), which the Board accepted. Code Compliance Director Gross mentioned an issue regarding the exhaust hood on the roof has just arisen, and there is a question as to whether the restaurant operating there or the property owner is responsible for it. He has met with the respondent and the Building and Fire Departments to work on correcting this problem. Code Compliance Director Gross stated Section 28.840(a)(11) - Miscellaneous Elements, is relative to the exhaust hood, and the fact that it cannot be repaired until the new roof is

installed. Regarding Section 28.840(d)(2) - Parking Lot Surface, he explained that until all major construction is done it would be premature to finish the parking lot. He concluded those are the only Sections that remain out of compliance and he asked for those two sections to be extended until the Board's next meeting on March 10, 2010.

Upon motion of Board Member Lear, seconded by Board Member Urbas, the Board **extended** the **compliance deadline for Code Sections 28.840(a)(11) and 28.840(d)(2), in Case No. 09-1966, until March 10, 2010.** Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting "aye", no "nay". Board Member Richard Schmidt was absent and did not vote.

**CASE NO. 09-2245 – City versus Andre A. Ashmeade - 9843 N. 52<sup>nd</sup> Street – Section 27.750(m)(3) – Minimum Standards – Roofs.**

Attorney Iurato submitted an Affidavit of Compliance dated January 14, 2010, which the Board accepted.

**CASE NO. 09-2351 – City versus John and Pat Douglas - 12907 N. 53<sup>rd</sup> Street - Sections 11.120.9 - Duty to Keep Premises Clean, 11.130.7(b) – Unauthorized Accumulation, 25.750.4 – Material and Equipment Storage, and 27.750(r)(2) – Minimum Standards – Sanitation.**

Attorney Iurato submitted an Affidavit of Compliance dated February 10, 2010, which the Board accepted.

**CASE NO. 09-2374 – City versus Izdehar Abdel Qadar - 10383 Councils Way - Section 8.830(a)(1) – Permits – When Required.**

Attorney Iurato noted that the compliance deadline is today and said Code Compliance Director Gross would present an update on this case. Code Compliance Director Gross reminded the Board that this is the case where a substandard roof was installed by an unlicensed contractor. He stated a permit has been pulled, the new roof has been installed, and the final inspection has been scheduled for tomorrow. He concluded that upon verification from the building inspector that the roof has passed inspection, he will issue an Affidavit of Compliance.

Chairman Pogorilich recommended extending the compliance date to the next meeting on March 10 and called for a motion. Upon motion of Board Member Urbas seconded by Board Member Lear, the Board **extended** the **compliance deadline, in Case No. 09-2374, until March 10, 2010.** Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Newkirk, Ruyle, and Urbas voting "aye", no "nay". Board Member Richard Schmidt was absent and did not vote.

**CASE NO. 09-2558 – City versus Elvira L. Machado - 12609 N. 52<sup>nd</sup> Street - Section 25.750.3(b) and (c) – Recreational Vehicles, Boats and Trailers and 25.750.4 - Material and Equipment Storage in Residential Zoning Districts.**

Attorney Iurato submitted an Affidavit of Compliance, dated January 28, 2010, which the Board accepted.

**CASE NO. 08-1787 – City versus Elvira L. Machado - 12609 N. 52<sup>nd</sup> Street - Section 25.750.3(b) and (c) – Recreational Vehicles, Boats and Trailers and 25.750.4 - Material and Equipment Storage in Residential Zoning Districts.**

Noting this case was not listed on the agenda, Attorney Iurato submitted an Affidavit of Compliance, dated January 28, 2010, which the Board accepted.

**There was no Other Board Action and no New Business.**

**APPROVAL OF MINUTES:**

Board Member Gibson requested future minutes be more detailed to reflect the Board Members, referenced by name, with their respective questions asked, rather than presenting a summary of the discussion.

Upon **motion** of Board Member Gibson, seconded by Board Member Newkirk, and unanimously carried, the **MINUTES** of the January 13, 2010, regular meeting were **APPROVED**.

There being no further business to come before the Board, the meeting was adjourned at 7:54 p.m.

Submitted by,

Donna M. Spano  
Deputy City Clerk