

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

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

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

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

ALSO PRESENT WERE: Attorney for the City Catherine “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, Joseph Takelli, Tammy Schuerg, Perla Ziegler, Ed Zeigler, Vincent Hernandez, Cathy Bryan 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 O’Dowd that cases with interested parties present would be heard first.

HEARINGS:

CASE NO. 10-0036 - City versus Edgar D. and Perla V. Ziegler - 9228 Overlook Drive – (REPEAT VIOLATION) Sections 25.750.4 - Material and Equipment Storage in Residential Zoning Districts and 11.120.9-Duty to Keep Premises Clean.

Attorney O’Dowd 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 Borroni, 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 and submitted photographic evidence of the alleged subject violations, labeled Exhibits 1 through 3; he provided documentary evidence of the Notice of Violation, the Violation Detail Report and the Order from previous MCEB Case No. 07-0784, which the Board accepted, establishing a repeat violation of Code Sections 25.750.4 and 11.120.9. Code Compliance Officer Borroni also submitted an Affidavit of Compliance, dated March 10, 2010, establishing compliance with Code Section 25.750.4, which the Board also accepted.

Board Member Urbas requested confirmation that the vehicle has been removed, but the debris in the front and rear yards remains, to which Code Compliance Officer Borroni responded affirmatively.

The respondent, Ed Ziegler, 9228 Overlook Drive, acknowledged and explained the circumstances resulting in the alleged violations, stating the car belonged to his mother, who passed away recently. He said they had trouble getting clear title after her passing, but have since been able to correct this issue.

With respect to the debris, since his wife lost her job, Mr. Ziegler explained they had been trying to renovate the home, with hopes of refinancing it; however, due to foreclosures and short sales in the area, when the appraisal came in, they couldn't even maintain the present value. Mr. Ziegler stated they have 10 people living in a 1,500 square foot home, so they have accumulated far too much. Since he works 60 hours per week in Clearwater, he explained he has very limited time to accomplish this major cleanup.

Chairman Pogorilich asked for confirmation regarding the number of people living in the home and whether any of the other residents could assist Mr. Ziegler with the cleanup.

Mr. Ziegler confirmed that there are 10 people living in the home, which include him and his wife, along with eight children. Mr. Ziegler surmised that a few of the teens might be able to assist in the cleanup.

Chairman Pogorilich asked Mr. Ziegler how much time he would need to complete the cleanup, to which Mr. Ziegler explained that he is hopeful he can remove the debris within 30 days; however, the real issue is that they need more space and would like to install a storage shed. Mr. Ziegler commented that he had made some brief inquiries to the City regarding permitting for a shed.

Chairman Pogorilich explained to Mr. Ziegler that storage sheds are allowed in the City and encouraged him to evaluate their storage needs, and then work with the City to obtain the permits necessary to install a shed.

Board Member Gibson called a Point of Order and inquired about the daily fine assessed for the days the repeat violation has existed prior to this hearing, and whether the Board has the ability to set a compliance date.

Chairman Pogorilich explained that, while this is a repeat violation, he believes the Board has the option to grant the respondent time to come into compliance, before treating this as an actual repeat violation, or to move that this is a repeat violation, with no additional time for compliance.

Based on the testimony of Code Compliance Officer Borroni and Edgar Ziegler, and the documentary evidence received by the Board, a motion was offered by Board Member Lear, and seconded by Board Member Ross to find **Edgar D. and Perla V. Ziegler, in Case No. 10-0036 to be GUILTY** of violating Sections 25.750.4 and 11.120.9, but because Section 25.750.4 was brought into compliance before the date of this hearing, **NO FINE** would be assessed on that violation, however, because violations to Section 11.120.9 remain out of compliance, as of this date, the motion proposed that the Board would give the respondents until **April 14, 2010**, to come into full compliance with Code Section 11.120.9; if the property does not come into full compliance by that date, a fine of **\$50.00** per day would accrue beginning **April 15, 2010**, until the date the violator provides the City with evidence that the property has been brought into compliance.

Prior to the vote on the above motion, Chairman Pogorilich stated, with reference to the previous Point of Order, the Board would need to modify the motion to state that it is a Repeat Violation.

The maker of the motion, Board Member Lear, called a Point of Order and inquired what the violation date should be, since the first case originated in July 2007.

Chairman Pogorilich and Officer Borroni reviewed the dates of the various notices and postings, and determined the violation date to be January 29, 2010.

Code Compliance Director Gross interjected that it has been the custom, policy wise, to consider the date of violation to be the day the respondent was notified, since that affords the respondent some opportunity to be aware of the situation.

Chairman Pogorilich asked for verification that January 29, 2010, would be the correct date of violation in this case, to which Code Compliance Director Gross responded in the affirmative.

Code Compliance Director Gross commented that the repeat violation also means that the Board has many different options in determining their ruling on this case, including the previous motion made, or a lump sum fine; however, a repeat violation does not necessitate lump sum fine, to which Chairman Pogorilich concurred.

Based on the testimony of Code Compliance Officer Borroni and Edgar Ziegler, and the documentary evidence received by the Board, upon motion of Board Member Lear, seconded by Board Member Ross, the Board **FOUND Edgar D. and Perla V. Ziegler, in Case No. 10-0036 to be GUILTY of REPEAT VIOLATIONS** of Sections 25.750.4 and 11.120.9, but because Section 25.750.4 was brought into compliance before the date of this hearing, **NO FINE** was assessed on that violation; however, because violations to Section 11.120.9 remain out of compliance as of this date; the Board gave the respondents until **April 14, 2010**, to come into full compliance with Code Section 11.120.9; if the property does not come into full compliance by that date, a fine of **\$50.00** per day shall accrue beginning **January 29, 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, Ross, Ruyle, and Urbas voting “aye”, no “nay”. Board Member William Newkirk was absent and did not vote.

Chairman Pogorilich explained to the respondents that they have until April 14, 2010, to get all the violations cleared up. If the property is not brought into compliance by that date, the fine will accrue with a beginning date of January 29, 2010.

CASE NO. 10-0167 – City versus Joseph Takelli and Babako Mamaah - 9405 Woodland Ridge Drive – Section 25.760.2(a) Parking on Residentially-Zoned Property.

Attorney O’Dowd 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 Borroni, 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, submitted photographic evidence of the alleged subject violations, labeled Exhibit 1, establishing a violation of Code Section 25.760.2, and submitted an Affidavit of Compliance, dated March 10, 2010, which the Board accepted.

The Respondent, Joseph Takelli, was present and explained he did not realize that they were not allowed to park in the rear yard, and now that they know, they will not do so again. He continued that this is his son's car, and since his son has been in many accidents, he was ashamed to park in the front. Mr. Takelli stated that the car has since been taken to the junk yard, so there will be no further problems.

Chairman Pogorilich thanked Mr. Takelli for correcting the violation in an expedient manner.

Based on the testimony of Code Compliance Officer Borroni and Joseph Takelli, and the documentary evidence received by the Board, upon motion of Board Member Lear, seconded by Board Member Urbas, the Board **FOUND Joseph Takelli and Babako Mamaah, in Case No. 10-0167 to be GUILTY** of violating **Section 25.760.2** 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, Ross, Ruyle, and Urbas voting "aye", no "nay". Board Member William Newkirk was absent and did not vote.

CASE NO. 09-2699 – City versus Waldemar F. Kissel, Jr. – Registered Agent - Boardwalk at Morris Bridge, LLP - 8800 Boardwalk Trail Drive - Sections 9.910(f) - Standards – Fire Department Connections and 25.745.8 – Street Name Signs.

Attorney O'Dowd 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 Director Gross, 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 Sections 9.910(f) and 25.745.8. He gave an update on the progress that has been made to correct the violations, and stated that due to the respondent's efforts, the City would not object to extending the compliance deadline until the Board's next hearing.

The respondent's representative, Cathy E. Bryan, 8800 Boardwalk Trail Drive, Apt. #22, who was not present at the beginning of the meeting, was sworn in by the Deputy City Clerk. Ms. Bryan acknowledged and explained the circumstances resulting in the alleged violations, stating that she had been the Property Manager at this complex from 2001 to 2006 and never had such a complaint. When she returned to the property in May 2009, she was unaware of the violations, until the City conducted their routine fire inspection. Ms. Bryan explained that the complex houses many college students, who seem to view the signs as collectors' items. She detailed various staffing problems within the facility's maintenance department and her efforts to ensure that staff worked to correct the violations. She commented that she is embarrassed by the violations, adding that correcting them is of the utmost importance to her. She reported all of the street signs, with the exception of two, have been installed, and the Fire Department Connection signs, which had to be re-ordered, will be installed as soon as they arrive. She then asked the Board to grant her an extension.

Based on the testimony of Code Compliance Director Gross and Cathy Bryan, and the documentary evidence received by the Board, upon motion of Board Member Gibson, seconded by Board Member Schmidt, the Board **FOUND Waldemar F. Kissel, Jr. – Registered Agent - Boardwalk at Morris Bridge, LLP in Case No. 09-2699 to be GUILTY** of violating **Sections 9.910(f) and 25.745.8** of the

City Code, and gave the respondent until **April 14, 2010**, to come into compliance with Code Sections 9.910(f) and 25.745.8. If the property does not come into compliance by that date, a fine of **\$50.00** per day shall accrue beginning **April 15, 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, Ross, Ruyle, and Urbas voting “aye”, no “nay”. Board Member William Newkirk was absent and did not vote.

Prior to the vote on the above motion, Board Member Lear stated that, having been a lifelong property manager herself, she can empathize with Ms. Bryan’s problems. She suggested that Ms. Bryan instruct her maintenance staff to be on the lookout for the missing signs while working inside the units. She asked Ms. Bryan if the violations could be corrected by the Board’s next meeting on April 14, 2010, to which Ms. Bryan responded affirmatively.

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

CASE NO. 09-2505 – City versus Richard and April Cabori – 7604 Willow Park Drive - Section 25.750.4 – Material and Equipment Storage in Residential Zoning Districts.

Attorney O’Dowd 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 Scrozzo, 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 violations, labeled Exhibit 1, establishing a violation of Code Section 25.750.4, and a subsequent Affidavit of Compliance, dated March 4, 2010, which the Board accepted. The Respondents were 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 Richard and April Cabori, in Case No. 09-2505 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, Ross, Ruyle, and Urbas voting “aye”, no “nay”. Board Member William Newkirk was absent and did not vote.

CASE NO. 10-0151 – City versus CT Corporation System, Registered Agent – Ace Cash Express, Inc. DBA Ace America’s Cash Express #3272 - 9303 N. 56th Street - Section 25.765.5(b)(2) – Prohibited Signs.

Attorney O’Dowd 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 violator. He provided testimony and submitted photographic evidence of the alleged subject violations, labeled Exhibit 1, establishing a violation of Code Section 25.765.5(b)(2), and a subsequent Affidavit of Compliance, dated February 10, 2010, which the Board accepted.

Code Compliance Director Gross commented they are requesting a finding against the tenant only, Ace America Cash Express. The Respondent was not present.

Chairman Pogorilich inquired whether the signs are still gone, to which Code Compliance Director Gross responded affirmatively.

Based on the testimony of Code Compliance Director Gross, and the documentary evidence received by the Board, upon motion of Board Member Gibson, seconded by Board Member Ross, the Board **FOUND CT Corporation System, Registered Agent – Ace Cash Express, Inc. DBA Ace America’s Cash Express #3272**, in Case No. **10-0151** to be **GUILTY** of violating **Section 25.765.5(b)(2)** 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, Ross, Ruyle, and Urbas voting “aye”, no “nay”. Board Member William Newkirk was absent and did not vote.

CASE NO. 10-0194 – City versus Lydia T. Cuebas - 7601 Glades Court – Section 8.830(a)(1) – Permits – When Required.

Attorney O’Dowd introduced the case and requested that the case be continued for one month, to April 14, 2010, since the respondent has recently hired an attorney and is in the process of correcting the violation.

Upon motion of Board Member Lear, seconded by Board Member Urbas, the Board voted to **continue Case No. 10-0194** until **April 14, 2010**. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Ross, Ruyle, and Urbas voting “aye”, no “nay”. Board Member William Newkirk was absent and did not vote.

UNFINISHED BUSINESS/PRIOR CASE HEARINGS:

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

Noting the presence of interested parties, Chairman Pogorilich announced the cases would be taken out of order to accommodate those respondents present.

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 stated that while he would like to report the same level of progress as has been demonstrated in the past, he cannot do so this month. He has conferred with the Building Official, and they believe it is fair, in support of this project, to provide an additional extension until the Board’s April 14, 2010 hearing. He reported that he is unsure whether he will be able to support future extensions since the original order was issued in August, 2009.

Tammy Schuerg, representing River Chase Apartments, 6900 Aruba Avenue, provided an update on the project. She explained that their contractor did not show up for work for 3½ weeks, and that is why there has been a lapse in progress. She reported they are at the contractor’s mercy right now, but they still anticipate the project will be completed in 30 to 45 days; she requested another extension.

In response to Chairman Pogorilich's inquiry regarding the amount of work remaining and the permitting necessary, Ms. Schuerg stated they have approximately 20 buildings left, with 8 to 10 units per building, and have already pulled all the necessary permits.

Chairman Pogorilich also inquired whether the contractor, in light of his recent absence, would add additional manpower on this job, to which Ms. Schuerg reported they have already been in contact with him to request that he do so.

Upon motion of Board Member Lear, seconded by Board Member Urbas, the Board **extended** the **compliance deadline** in **Case No. 09-0942** until **April 14, 2010**. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Ross, Ruyle, and Urbas voting "aye", no "nay". Board Member William Newkirk was absent and did not vote.

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 O'Dowd introduced an Affidavit of Compliance, prepared by Code Compliance Officer Borroni and dated March 10, 2010, for compliance with Section 25.755.10. Code Compliance Officer Borroni gave an update on the case stating that while there has been some progress, only one of the four original violations has been brought into compliance.

In response to Chairman Pogorilich's request to detail the remaining violations, Code Compliance Officer Borroni reported that there is still trash and debris in the rear yard, the right-of-way is unmaintained, and the carport enclosure, which was done without a permit, must be removed.

The respondent's son, Vincent Hernandez, 105 Deer Park Avenue, explained that he believes all the violations have been corrected, with the exception of the carport work that was done without a permit. He reported that he has come to the realization that it will be some time before he can afford to hire a contractor to complete the carport enclosure; therefore, he will work with the building department to remove anything they will not allow to remain. He also mentioned a problem with downed power lines in the rear yard, reporting that he has been in contact with TECO to correct this problem; however, TECO has not returned to the site as yet.

Chairman Pogorilich asked Mr. Hernandez if he believed he could be in full compliance by the Board's next meeting, to which Mr. Hernandez replied affirmatively. Chairman Pogorilich explained to Mr. Hernandez that this Board cannot address the structural aspects of his carport enclosure; he must seek inspections and permits from the City's Building Department.

Board Member Lear asked for clarification regarding the power lines. Code Compliance Officer Borroni verified that there are, indeed, live power lines hanging in the back yard. He added that he was not aware of these power lines until Mr. Hernandez showed them to him today. He confirmed that Mr. Hernandez has contacted TECO, but they have not been back out to the property as yet.

Board Member Urbas inquired whether the wires were part of the violation. Chairman Pogorilich stated they were not part of the original violation, but they are now keeping Mr. Hernandez from correcting the violations in the rear yard.

Board Member Urbas concurred, adding that this is a legitimate reason to grant additional time to clean the rear yard.

Upon motion of Board Member Urbas, seconded by Board Member Ross, the Board **extended** the **compliance deadline** in **Case No. 09-2432** until **April 14, 2010**. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Ross, Ruyle, and Urbas voting “aye”, no “nay”. Board Member William Newkirk was absent and did not vote.

Noting no more interested parties wishing to be heard under Unfinished Business / Prior Case Hearings, Chairman Pogorilich resumed the agenda order.

CASE NO. 05-1536 – City versus Nina Iacovella and Joseph H. Ficarrotta - 11710 N. 51st Street- Section 25.780.8(a)(b)(c) - Required Buffering-Commercial.

Attorney O’Dowd introduced the case and Code Compliance Director Gross gave a brief update, stating he is very pleased with all the progress that has been made. He commented that the case will come up next month under the quarterly updates.

CASE NO. 08-2106 – City versus Wade P. Behnke - 9616 Overlook Drive - Sections 11.120.9 – Sanitation – Duty to keep Premises Clean, and 25.755.10 – Pools – Duty to Maintain.

Attorney O’Dowd introduced the case and reported that this property went into foreclosure on or about November 18, 2009, and as a result, the lien has been foreclosed out. Code Compliance Director Gross reported that he has been in almost daily contact with the prospective new owner and has informed him that any remaining violations must be corrected within two weeks of his taking ownership of the property.

CASE NO. 09-1966 – City versus Fadi Mubarak, Registered Agent, Metro Tampa, LLC - 10821 N. 56th 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 O’Dowd introduced the case and Code Compliance Director Gross gave a brief update. He reported that there is still some dispute over the rooftop equipment, and until that is resolved, the parking lot cannot be completed. Code Compliance Director Gross stated he can support one more extension, until the April 14, 2010, meeting, and he has informed all the interested parties of that.

Upon motion of Board Member Urbas, seconded by Board Member Ross, the Board **extended** the **compliance deadline** in **Case No. 09-1966** until **April 14, 2010**. Vote on the motion being: Chairman Pogorilich and Board Members Gibson, Lear, Ross, Ruyle, and Urbas voting “aye”, no “nay”. Board Member William Newkirk was absent and did not vote.

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

Attorney O’Dowd submitted an Affidavit of Compliance dated February 11, 2010, which the Board accepted.

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

Attorney O’Dowd submitted an Affidavit of Compliance dated February 25, 2010, which the Board accepted.

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

Attorney O’Dowd stated the compliance deadline is March 10, 2010; therefore, there are no Affidavits to submit. Officer Scrozzo stated they have been unable to get the respondents to comply.

Chairperson Pogorilich inquired about the respondents’ attitude towards this case, to which Code Compliance Officer Scrozzo commented that he believes they are ignoring it and hoping it will go away, adding they could come into compliance very easily.

CASE NO. 09-1622 – City versus Sandra Cuddeback - 106 Deer Park Avenue - Sections 11.120.9 – Sanitation - Duty to Keep Premises Clean and 8.830(a)(1) – Permits – Application – When Required.

Noting this case was not listed on the agenda, Attorney O’Dowd submitted an Affidavit of Compliance with Section 11.120.9, dated March 8, 2010, which the Board accepted.

There was no Other Board Action and no New Business.

APPROVAL OF MINUTES:

Upon **motion** of Board Member Gibson, seconded by Board Member Lear, and unanimously carried, the **MINUTES** of the February 10, regular meeting were **APPROVED**.

There being no further business to come before the Board, the meeting was adjourned at 8:14 p.m.

Submitted by,

Donna M. Spano
Deputy City Clerk