

**CODE ENFORCEMENT BOARD MINUTES**  
**Wednesday, May 9, 2018 – 2:00 p.m.**  
**City Hall, Council Chambers, Vero Beach, Florida**

**PRESENT:** Chairman, Kirk Noonan; Vice Chairman, Erik Price; Members: Chris Bryant, Stephen McDonald, Jeff McGann, Frank Pizzichillo and Linda Hillman **Also Present:** Assistant City Attorney, Kira Honse; Code Enforcement Officer, Melody Sanderson; Code Enforcement Officer, Thomas Ramsey and Deputy City Clerk, Sherri Philo

**1. CALL TO ORDER**

Today's meeting was called to order at 2:00 p.m.

**2. PLEDGE OF ALLEGIENCE**

The Chairman led the Board Members and the audience in the Pledge of Allegiance to the flag.

The Deputy City Clerk swore in staff and all witnesses present for today's meeting en masse.

**3. PRELIMINARY MATTERS**

**A) Adoption of Minutes –April 11, 2018**

**Mr. Pizzichillo made a motion to adopt the minutes of the April 11, 2018 Code Enforcement Board meeting. Mr. Bryant seconded the motion and it passed unanimously.**

**B) Agenda Additions, Deletions and Adoption**

Mr. Thomas Ramsey, Code Enforcement Officer, pulled Case #18-CE-8147 – Kelly Jo Lozier from today's agenda. He reported that the property is in compliance and the citation has been rescinded due to lack of service and the case is now closed. He then pulled Case #18-CE-8338 – Suncoast Royal Investments, LLC (dba/ Sonic); Case #18-CE-8339 – Game Realm / Eric Young; Case 18-CE-8376 – Fulvio Sanchez; and Case #18-CE-8377 – Katwalk Boutique from today's agenda. He reported that the properties are in compliance and the civil penalties have been paid. He then pulled Case #18-CE-8393 – E&G Investment Properties, LLC from today's agenda. He reported that the property is in compliance and he was told by their accountant that the check to pay the civil penalty is in the mail. Therefore, he was pulling the case from today's agenda and if the check is not received he will reschedule the case to come before the Board.

Ms. Melody Sanderson, Code Enforcement Officer, pulled Case #18-CE-8258 – CMA Management, LLC/Barbara Kuller and Case #18-CE-8343 – CMA Management, LLC/Barbara Kuller from today's agenda. She reported that the property is in compliance and the civil penalty on both cases has been paid.

Ms. Kira Honse, Assistant City Attorney, pulled Case #18-CE-8012 – Yellow Kid, Inc. from today's agenda. She reported that she thought this case was being pulled from the agenda and so she told the gentleman who was present for this case that he could leave.

**Mr. Noonan made a motion to adopt the agenda as amended. Mr. Bryant seconded the motion and it passed unanimously.**

**4. UNLICENSED CONTRACTORS/CITATIONS**

None

**5. EVIDENTIARY HEARINGS**

**A) Citation Appeals**

**B) Non-Compliance / Compliance Reports**

**1. Request for Board Order**

**a. CASE #17-CE-8012 / 1194M**

**VIOLATOR:** Yellow Kid, Inc. / William Lee, Agent

**VIOLATION:** Standard Housing Code Violations: rotting wood in fascia; holes in porch roof eave; non-operable windows and screens missing; rodent/insect droppings observed; and no smoke detector

**VIOLATION ADDRESS:** 2431 20<sup>th</sup> Avenue, Vero Beach, Florida 32960

This item was pulled from today's agenda.

**b. CASE #18-CE-8147 / 1330T**

**VIOLATOR:** Kelly Jo Lozier

**VIOLATION:** Unsheltered appliance in yard; window remains boarded over deeming inoperable

**VIOLATION ADDRESS:** 2670 18<sup>th</sup> Street, Vero Beach, Florida 32960

This item was pulled from today's agenda.

**c. CASE #18-CE-8199 / 1244M**

**VIOLATOR:** Sturgis Family's 20<sup>th</sup> Street LLC / Mary Lu Redish, Agent

**VIOLATION:** Palm and Pine Trees at the rear of property damaged from hurricane

**VIOLATION ADDRESS:** 2900 20<sup>th</sup> Street, Vero Beach, Florida 32960

**Paid \$50 civil penalty**

Ms. Sanderson reported that the property remains in violation as of this morning and the civil penalty has been paid. She said there is a cost of enforcement in the amount of \$63.40. She asked that the Board finds the violation does exist and to issue a Board order to correct the violation by June 4, 2018 and to pay the enforcement costs of \$63.40.

**Mr. Pizzichillo put that in the form of a motion. Mr. Bryant seconded the motion and it passed unanimously.**

- d. CASE #18-CE-8230 / 1325T**  
**VIOLATOR:** Killinda A. Williams  
**VIOLATION:** Unstored trash or debris throughout the property; vehicles parked all over the front and side yard  
**VIOLATION ADDRESS:** 1936 35<sup>th</sup> Avenue, Vero Beach, Florida 32960

Mr. Ramsey reported that the property is in compliance and the civil penalty remains unpaid. He asked that the Board finds the property in compliance and to issue a Board Order to pay the civil penalty in the amount of \$50. There is no cost of enforcement.

**Mr. Noonan made a motion that the Board finds there was a violation, the violation has been corrected and to issue a Board Order to pay the \$50 civil penalty. Mr. Pizzichillo seconded the motion and it passed unanimously.**

- e. CASE #18-CE-8258 / 1276M**  
**VIOLATOR:** CMA Management, LLC / Barbara Kuller  
**VIOLATION:** Fence installed without a permit from the Indian River County Building Department  
**VIOLATION ADDRESS:** 2210 15<sup>th</sup> Place, Vero Beach, Florida 32960

This item was pulled from today's agenda.

- f. CASE #18-CE-8343 / 1301M**  
**VIOLATOR:** CMA Management, LLC / Barbara Kuller  
**VIOLATION:** New windows installed without permit from the Indian River County Building Department  
**VIOLATION ADDRESS:** 2210 15<sup>th</sup> Place, Vero Beach, Florida 32960

This item was pulled from today's agenda.

- g. CASE #18-CE-8338 / 1340T**  
**VIOLATOR:** Suncoast Royal Investments, LLC (dba / Sonic)  
**VIOLATION:** Banner/Sail type signs placed without City approval or permits  
**VIOLATION ADDRESS:** 1780 US1, Vero Beach, Florida 32960  
**Failure to pay \$50 civil penalty**

This item was pulled from today's agenda.

- h. CASE #18-CE-8339 / 1339T**  
**VIOLATOR:** Game Realm – C/O Eric Young  
**VIOLATION:** Signs placed without permits or approval

**VIOLATION ADDRESS:** 925 14<sup>th</sup> Lane, Vero Beach, Florida 32960

This item was pulled from today's agenda.

- i. CASE #18-CE-8376 / 1335T**  
**VIOLATOR:** Fulvio Sanchez  
**VIOLATION:** Tree removed without a permit or approval  
**VIOLATION ADDRESS:** 1935 35<sup>th</sup> Avenue, Vero Beach, Florida 32960  
**Failure to pay \$250 civil penalty**

This item was pulled from today's agenda.

- j. CASE #18-CE-8377 / 1336T**  
**VIOLATOR:** Katwalk Boutique  
**VIOLATION:** Sign Violation  
**VIOLATION ADDRESS:** 2855 Ocean Drive, Ste B-6, Vero Beach, Florida 32963  
**Failure to pay \$150 civil penalty**

This item was pulled from today's agenda.

- k. CASE #18-CE-8393 / 1341T**  
**VIOLATOR:** E&G Investment Properties, LLC  
**VIOLATION:** Garbage, trash, and items improperly stored; dumpster gate enclosure in disrepair; enclosure site not maintained to Code  
**VIOLATION ADDRESS:** 1825 14<sup>th</sup> Avenue, Vero Beach, Florida 32960  
**Repeat Violation \$100 civil penalty**

This item was pulled from today's agenda.

- l. CASE #12-CE-3522 / 048M**  
**VIOLATOR:** Sam Evans and Fatima Johnson  
**VIOLATION:** Roof leaks; windows non-operable; no screens in windows; no smoke detectors; broken electrical outlets; light switches need replacing and toilet needs repair  
**VIOLATION ADDRESS:** 2520 20<sup>th</sup> Street, Vero Beach, Florida 32960  
**(Property found in compliance on April 2, 2018. Previously penalties were assessed and are still owed from the Order to Correct Violations, Imposing Continuing Civil Penalties and to Pay Civil Penalties and Costs in the amount of \$4,899.12 [Calculation: 96 days non-compliance that commenced on February 2, 2013 and as of date of Code Board Hearing (May 8, 2013) x \$50 per day = \$4,800 for a total owed as of the Board Order in the amount of \$4,850 + \$49.12 enforcement costs = \$4,899.12 plus recording fees**

**and Attorney fees.] Penalties continued from the date of the May 8, 2013, Hearing which equal 1,789 days at \$50 per day = \$89,450 plus \$197.09 in enforcement costs, along with recording fees and Attorney fees.)**

Ms. Sanderson reported that the property was brought into compliance on April 2, 2018. She requested that the Board issue a Board Order finding compliance and ceasing the continuing penalties. There is a cost of enforcement in the amount of \$197.09. She reported a representative from the Real Estate Company is present for today's hearing to speak on behalf of the property owner.

Ms. Donna Albert, of Live Oaks Realty, reported that she was present for today's hearing to see if they can have the fine reduced to possibly an administrative fee. She reported that the company that purchased the property did get the grounds in compliance and then they realized that there were other issues and that fines were accruing. She reported that they put on a new roof and everything inside the home has been redone.

Mr. McDonald said there are two (2) amounts. One (1) is in the amount of \$89,450 that dates back to May of 2013. He asked if that is correct.

Ms. Albert thought that was correct. She said in the court documents that they have yes; it has been accruing at \$50 a day since 2013.

Mr. McDonald asked when did the people she is representing purchase the home.

Ms. Albert thought it was in 2017. She said her company started marketing the property in October of 2017 and in September of 2017 the people that she is representing began to bring the property into compliance starting with the yard work and getting quotes to get work done. She reported that they have had a lot of issues with contractors. She said that the first contractor took off with \$10,000 and stopped doing the work.

Ms. Sanderson reported that the property did have a daily continuing fine based on Standard Housing Code violations. She understands that the people Ms. Albert represents purchased the property for \$31,000. But, when the property was first listed for sale there were many people who approached the City to find out what the fines were. Based on the fines, local people opted not to purchase the property because there was no guarantee the fine would be reduced. She asked Ms. Albert if this is a different property owner with a different entity name.

Ms. Albert said as far as she knows the people who had the fines were totally different people.

Ms. Sanderson said that is true, but they purchased the property for \$31,000. The City has money in it, which is why she was asking for enforcement costs just for the follow up for several years. To her, it would be sad to wipe out all the fines when many people would have purchased the property as a residence to live in. Unlike the people who she represents who purchased the property to turn around and resell it.

Mr. Noonan said these people had the same opportunity to come and ask that the fines be reduced.

Ms. Sanderson said that is true.

Mr. McDonald asked where are the people who owned the home while the fines were accruing.

Ms. Sanderson said the property was in foreclosure at that point.

Mr. McDonald said someone must have owned it. He asked was it a bank.

Ms. Sanderson said the bank took possession of it, but didn't take title until it was sold.

Mr. McDonald asked then was the bank responsible.

Ms. Sanderson said unless they do a certificate of title they are not liable.

Ms. Albert said that is correct.

Mr. McDonald asked who received the \$31,000.

Ms. Albert said the bank.

Mr. Noonan asked how did this not get resolved at closing.

Ms. Sanderson said the buyers that Ms. Albert represents did not have any dialogue with the City and they didn't do a lien search.

Mr. Price asked how much is it up for sale now.

Ms. Albert said it is currently withdrawn, but they do have it under contract for \$125,000 and it is to close by the end of the month and until this is resolved no one is willing to take over the responsibility.

Mrs. Hillman asked did you say they purchased the home in 2017.

Ms. Albert said that her company did not represent them at that time, but according to court records it was 2017.

Mr. McGann asked how did this information not show up in the title search.

Ms. Albert said that she did not know.

Mr. McDonald asked did they purchase title insurance.

Ms. Albert said it is an LLC that purchased it and she did not know if they did or not.

Ms. Honse reported that in looking at the Property Appraiser's website, a certificate of title was issued and there were quit claim deeds. So, there was no warranty deed at that point. They do take it at risk.

Mr. Pizzichillo asked exactly how much is the total owed today.

Ms. Honse explained that there are two (2) different amounts. One (1) amount the Board has the authority to adjust and one (1) amount they do not have the authority to adjust.

Mr. Pizzichillo asked what is the amount the Board is able to adjust.

Ms. Honse said \$89,450.

Mr. Pizzichillo asked what is the amount they are not able to adjust.

Mr. Noonan said \$4,899.12.

Mr. Noonan questioned this house has been fixed up and ready to sell.

Ms. Albert answered yes, and it is all up to Code.

Mrs. Hillman asked if she is to understand that they have to pay the \$4,899.

Mr. Bryant answered yes.

Mr. Noonan said they can go before the City Council and ask that they reduce it.

Mrs. Hillman said the Board can impose another penalty on top of that.

Mr. Bryant said they can adjust the \$89,450 or keep it as it is.

Mr. McDonald asked are Mr. Evans and Ms. Johnson investors or owners.

Ms. Honse explained that they were the original owners of the property when the Code Enforcement Case first came into being and when the Order was issued, in 2013.

Mrs. Hillman said at that time they were aware of this.

Ms. Sanderson reported that Mr. Evans and Ms. Johnson lived out west of town and they used this property as a rental.

Mrs. Hillman said but, they were aware of the penalties.

Ms. Sanderson said that is correct.

Mr. Bryant read into the record the violations, which were *“roof leaks, windows that didn’t operate, no screens on the windows, no smoke detectors, broken electrical outlets, light switches that need replacing and toilet that needs repair.”* He said so someone from the City went inside and inspected the house.

Ms. Sanderson said that she did.

Mr. Pizzichillo asked was the house occupied by a tenant.

Ms. Sanderson answered yes.

Mr. Pizzichillo questioned the house was occupied in that condition.

Ms. Sanderson said the tenant called her because they were unable to get the repairs done by the property owner.

Mr. Pizzichillo said if the house was unoccupied he would look at it one (1) way, but with it being occupied he looks at it in a completely different light.

Ms. Sanderson explained that when the case was initiated in 2012, the house was occupied. When it came to hearing the tenants had left.

Mr. Pizzichillo said it would seem to him that they had to because the house was uninhabitable under those conditions.

Mr. Price asked who is the fine punishing.

Mr. Noonan said the people who want to purchase the house now.

Mr. Price said correct. It is not the violator.

Mr. Bryant said they took a chance and paid \$31,000 for the property in hopes that this would go away.

Ms. Albert said that she didn't think they realized there was \$89,000 in fines. She thought that they were under the impression that it was just the yard that needed to be cleaned up. She said even for them as a listing agent they didn't know the property had all these fines until they spoke with Ms. Sanderson. She said unless you investigate further you don't always know.

Mr. Pizzichillo asked were the violations enumerated.

Ms. Sanderson said on the original citation in 2012, yes they were enumerated to the property owners. During the time the property has been a foreclosed property there have been other cases for the landscape debris, contractor debris, etc. She thought that what Ms. Albert was saying was that they picked up on, was yard stuff.

Ms. Albert said that is correct. That was what they were aware of.

Mr. McDonald asked who were the owners of the home while these fines were accruing.

Ms. Honse explained that ownership changed hands several times. She reported that the bank received it in 2015, there was a quit claim deed in 2016, and two (2) different quit claim deeds in 2017.

Mr. McGann said that he is trying to establish the value of the property now. He said they paid \$31,000 for the property and he wanted to know what the comparables are in the neighborhood.

Mr. Price said the property is listed for \$125,000.

Mr. McGann said they are asking \$125,000, but they purchased it for \$31,000.  
Mr. Price said they put money into the property.

Mr. Bryant asked what is the square footage of the house.

Ms. Albert answered about 1,200 square feet.

Mr. Bryant said they probably have about \$80,000 in it, including the purchase price.

Ms. Albert said they would be putting in a driveway as well.

Mr. Bryant said that would cost about another \$12,000, so it would be about \$92,000.

Mr. Noonan said that he does not see a reason to punish the people who are trying to buy the house. He said if they tack on \$90,000 in fees then that house is going to sit there until it falls apart again.

Mr. Bryant asked Ms. Atwell if she is the listing agent.

Ms. Atwell said that her Broker is the listing agent, but is out of town.

Mrs. Hillman said that she doesn't believe that they should absolve everything.

Mr. McDonald agreed.

Mrs. Hillman said since 2012, the City has been citing the property and it is obvious that they knew.

Mr. Price said but if they can't afford to fix it then they let the bank take it.

Mr. Noonan said they would still have to pay the \$4899.12, plus costs.

Mrs. Hillman said that she understands that. But, they are talking about six (6) years (2012 – 2018) of the City ...

Mr. Bryant said the property has changed hands a couple times as well and no one did their due diligence and thought they were going to slide under the radar.

Mrs. Hillman said including the new owners and the Realtor. She said their Code Enforcement and the City should not be penalized because someone didn't do their due diligence.

Mr. Noonan said they are paying for the Code Enforcement's work, the \$197.09.

Mrs. Hillman said, but that's it.

Mr. Noonan said they are not there to earn money. They are here to make sure the City looks good.

Mrs. Hillman said exactly, but they can't keep letting all these fines go every time a fine is levied and that is basically what they have been doing for the past year.

Mr. Noonan asked who are you punishing though.

Mrs. Hillman said they are not trying to punish anybody.

Mr. Price asked Mrs. Hillman if she considered this was an excessive fine.

Mrs. Hillman said yes, she thinks it is an excessive fine. But, she doesn't think they should just wipe out the entire \$89,000 and she is not saying to fine them \$40,000. But, they should at least levy a fine of \$10,000 on top of the \$4,800.

Mr. McDonald said they have a net of somewhere in the area of \$40,000 after costs.

Ms. Albert said that is correct.

Mr. McDonald felt they should sacrifice half of that.

Ms. Albert said she could provide the receipts of everything they paid out.

Mr. McDonald said it is not a question of receipts. Legally they are on the hook for \$89,000.

Ms. Albert said if you are a cash buyer sometimes these things you do not know.

Mr. McDonald said if you are a real estate investor and you don't run a title search ... He said that he is not a real estate investor, but he has owned eight (8) houses and the first thing he does is buy title insurance because these things happen. He felt that knocking off \$69,000 was very gracious and leave the fee at \$20,000. He said that he could not imagine anyone walking away for any less than that.

Mrs. Hillman agreed.

Mr. Pizzichillo agreed that they cannot let this slide by. He felt there should be a fine and was unsure of the number.

Mr. Price said that he would be okay with 10% of the \$89,000.

Mr. Pizzichillo said that he would like to hear some other numbers and the rationale behind it.

Mr. McDonald said his rationale is that they have a \$40,000 profit in the house right now. They took a huge risk.

Mr. Bryant said they don't have a \$40,000 profit. He was just giving assumptions. He said it could have been more.

Mr. McGann asked are the current owners going to live there and be part of the community or are they going to flip it or rent it.

Ms. Albert said they are going to rent it.

Mr. Pizzichillo thought that she said the property was for sale.

Ms. Albert said it is for sale and they have it under contract with a local couple who are purchasing it to rent it and hopefully if the zoning changes to commercial then they could possibly sell it for commercial. She said their clients who are selling the home did not know about the huge fine.

Ms. Honse said part of the reason a portion of the fees is unable to be reduced is because that lien was recorded. Therefore, there was an order that was in the public records that even a person doing their own title search would have found that there was a Board order that the property was in non-compliance.

Mrs. Hillman agreed with Mr. McDonald. She questioned if you have a corporation that buys property to fix and flip and they don't purchase insurance or check the records.

Mr. McDonald felt there was another issue as well. He said they are professional investors and he assumed this wasn't the first house they redid and resold.

Ms. Albert said the company she represents is an LLC. She said they are basically an asset management company.

Mr. McDonald said that is fine, but the point is if the Board sets a precedence here that someone can purchase a home that has huge fines and they could come before the Board and tell the Board not to punish them, that doesn't make any sense.

Mr. Noonan said the point of the fine is to get it repaired and that is what has happened.

Mr. Price said it is not a livable property.

Mr. McDonald said that he doesn't understand. He questioned the point of the fine is to ensure repairs.

Mr. Bryant said instead of having the City knock down the building and eat all that time and money ...

Mr. McDonald questioned so then there's no intention of ever collecting the fine.

Ms. Honse said then the fine no longer serves a purpose.

Mr. McDonald said at \$20,000 they were giving them a \$69,000 break. He questioned they are professional investors that have attorneys and realtors working for them and they couldn't do a title search.

**Mr. McGann made a motion that the Board reduces the outstanding fine by 50%.**

Mr. Bryant asked is this commercial property.

Ms. Sanderson said it has State Road 60 frontage.

Ms. Albert said it was her understanding that people have tried to get it zoned commercial.

Ms. Sanderson said Ms. Albert stated that their thought is to use it as a rental and if the property could be sold for commercial ...

Ms. Albert said it was her understanding that when they tried to get it zoned commercial it was declined.

Mr. Pizzichillo said it was not his concern whether it is commercial or not, but it seemed to him that they were looking for the big score if it did go commercial. He felt that there should be a fine of some number.

**The motion died for lack of a second.**

**Mrs. Hillman made a motion that the Board reduces the fine to \$20,000 with the \$4,899.12 and that the property is in compliance.**

Ms. Honse asked for clarification on the motion.

**Mrs. Hillman made a new motion to clarify, which was that the Board reduce the fine to \$20,000, that the property is in compliance and to cease the continuing penalties and to pay the cost of enforcement and fees. Mr. Pizzichillo seconded the motion and it passed 4-3 with Mrs. Hillman voting yes, Mr. McGann yes, Mr. Pizzichillo yes, Mr. Bryant no, Mr. McDonald Yes, Mr. Price no, and Mr. Noonan no.**

**6. OLD BUSINESS**

None

**7. ADMINISTRATIVE MATTERS**

None

**8. CLERK'S MATTERS**

- A) Cancellation of Code Enforcement Board Meeting Scheduled for July 11, 2018**

**Mr. Noonan made a motion to cancel both their June and July meeting. Mr. Pizzichillo seconded the motion.**

Mr. Bryant asked do they know how many cases they have set for June.

Mr. Ramsey said the next couple of months are generally the slower months.

Mr. McDonald noted that he would be out of town the month of August.

**The motion to cancel the Board's June and July's meetings passed unanimously.**

**9. ATTORNEY'S MATTERS**

None

**10. CHAIRMAN'S MATTERS**

None

**11. MEMBER'S MATTERS**

None

**12. ADJOURNMENT**

Today's meeting adjourned at 2:40 p.m.

/sp