Code Enforcement Board
Meeting Minutes
February 15, 2024

A meeting of the Code Enforcement Board of the City of Cocoa was held on Thursday, February 15, 2024 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

OPENING MATTERS:

Chairman Roberts called the meeting to order at 6:05 P.M. The Board Secretary called the roll.

MEMBERS PRESENT:

Lloyd Roberts	Chairman
George Brown Jr.	Vice-Chairman
Josue Otero	Board Member
Melissa Acosta	1rst Alternate
Dik Muller	2nd Alternate

MEMBERS ABSENT:

Michael Simpson	Board Member-excused
Sharri Scott	Board Member-excused
Chris Davis	Board Member-unexcused

OTHERS PRESENT:

Augusto Gonzalez	Interim Code Enforcement Manager
Chris Moderson	Sergeant
Micheal Mack	Code Enforcement Officer
Michael Folger	Code Enforcement Officer
Debra Babb-Nutcher	Board Attorney
Darla Crowl	Recording Secretary

The Board Secretary swore in all Staff members giving testimony.

APPROVAL OF AGENDA AND MINUTES:

1. Approval of Agenda: February 15, 2024

Chairman Roberts noted changes to the agenda (Items complied, tabled and withdrawn)

Motion by Mr. Brown, seconded by Mr. Otero, to approve to the agenda of February 15, 2024. Vote on the motion carried unanimously.

2. Approval of Meeting Minutes: January 18, 2024.

Motion by Mr. Brown, seconded by Mr. Otero, to approve to the minutes of January 18, 2024. Vote on the motion carried unanimously.

3. Submit to the record of all documents & notices for all cases on the Agenda.

OTHER BUSINESS:

1. CE-20-1362 – 1206 Yale Ln – Correction of information and board's order

This case was brought to the board for a lien reduction on **January 18, 2024** and I apologize, I read from an unedited template.

For the record the testimony I gave with dates and amounts were incorrect but the testimonies given by staff and Mrs. Fuller was correct. At this time, I'd like to re-read the correct information on the record.

The Code Enforcement Board held a public hearing on **8/19/2021**, at which time the Board found the owner, **Harold & Risa Fuller** in violation of the following:

- **Business Tax Receipt, Sec. 12-1 (a)(b)**
- **Rental Business Tax, Sec. 6-2003**
- **Storing Junk or Autos, Sec. 6-902 (b)(1)(2)**

The Code Enforcement Board provided the owner sufficient time to correct said violation. Therefore, consistent with the Code Enforcement Board's Order a Non-Compliance Hearing was held on **11/18/2021.**

The lien ran at **$75.00** per day from **10/16/2021** until compliance was achieved on **11/29/2022**. Code records show onsite inspections were conducted by **Officer's Pettengill, Buonocore and Myself**. The case was closed leaving a fine of **$30,665.00**.The current owner, **Risa R. Fuller**, is requesting that the lien be reduced to **$0.00**.

Staff utilized the following factors in making its recommendation to reduce the lien:

- Whether the current owner owned the property at the time the violation(s) occurred; **Yes**

- Applicant resides at the property: **No, this is a rental property**

- The number of violations related to the subject lien; **Three**
- Number of Inspections performed: **29**
- Property Taxes: **Taxes are paid through 2023**
- Other Liens: **Records show no outstanding liens on the property. No water liens**
- Property Inspection: **The property was inspected on January 18, 2024 and this morning, February 15, 2024 and was in-compliance before the Code Board Hearing. An inspection will also occur prior to the Council Meeting**

The current market value of the subject property; the current market value is **$142,080** according the Brevard County Property Appraiser as a **Single-Family Residence**.

Staff submits their cost sheet and the in the total amount of **$3,840.28**

Staff's recommendation is that the fine/lien be reduced to **$3,840.28** which is the cost of staff to prosecute this case. This reduction is based on the gravity of the violations, the length of time it took the property to come into compliance, and the total amount of the City's Cost.

Property attorney: Nathan Meloon
Property owner was sworn in: Risa Fuller, 4345 JAMES RD

Mr. Brown wanted to make a motion. Attorney Babb-Nutcher said the case has already been hear but it is the Code Board discretion to hear the testimony again. Chairman Roberts asked what was decided at the January Code Board and the correct amounts of the lien. A fifty percent (50%) reduction was given at the prior meeting in the amount of $29,505.00.

Attorney Meloon stated that Ms. Fuller asked for the lien be reduced to zero on her application but has stated she would be willing to pay staff's cost of $3,840.28. Chairman Roberts discussed the items that happened at the last Board meeting. Mr. Otero commented on why the lien was reduced to a fifty percent (50%) reduction. Mrs. Acosta wanted to remind the members that there were also neighbor complaints. Acting Code Enforcement Manager Gonzalez said the complaint was from a citizen. The Board Members wanted to go through the pictures to show how long the car hauler and cars were constantly at the property. Mr. Brown wanted to make a motion to reduce the lien to $4,500.00 said he didn't feel it was a serious problem. Mrs. Acosta said the neighbors had to deal with what was going on at the property for 29 days. She felt it was irresponsible no matter if it was the renter or the property owner. Vice Chairman Brown's motion was denied. Mrs. Fuller wanted to give testimony about her

neighbors. Attorney Babb-Nutcher told Mrs. Fuller that she is trying to go back through the violations that existed or not and that is not proper at this point. There are factors to consider on reducing a fine which is totally in the Boards discretion. Attorney Babb-Nutcher explained that the length of time it took to come into compliance, the cooperativeness of the owner, the seriousness of the violation and sometimes the value of the house. Those are the things at this stage that are important. Attorney Babb-Nutcher said the property owner has already missed her opportunity as there is a statutory appellate process for that. Acting Code Enforcement Manager Gonzalez gave more information about the case Mrs. Fuller said was closed. Officer Buonocore opened a duplicate case when there was a lien already running. He was told to close that case which was discussed at the last meeting. This case continued to run until compliance was achieved. The 29 visits were from the beginning of the case until compliance for the lien reduction. More discussion amongst the Board members, the property owner, Attorney Meloon and staff.

Motion by Mr. Otero, seconded by Mrs. Acosta, to amend staff's recommendation to City Council the lien reduction be in the amount of fifteen thousand three hundred thirty-two dollars and fifty cents **($15,332.50).** Vote: Yay (4) Nay (1) Motion Past

CASES:

1. CE-23-509 – 3818 Parapet Dr.

Complied.

2. CE-23-765 – 2227 Dartmouth Dr.

Complied.

3. CE-23-111 – 414 N Fiske Blvd

Complied.

4. CE-23-186 – 421 Thomas Ave.

Code Enforcement Officer Augusto Gonzalez Acting Code Enforcement Manager provided an overview of the Case history and presented exhibits for the Board's review. Officer Gonzalez testified that the Property Owner was in violation of ***Accum of Trash and Litter, Ch. 6 Sec. 6-900 (b) (1) (a-d), Exterior General Condition, Ch. 6 Sec. 6-1003 (a-p), Rental Business Tax, Ch. 6 Sec. 6-2003 and Storing Outdoors, Ch. 6 Sec. 6-900 (b) (11)*** of the City Code.

Officer Gonzalez Acting Code Enforcement Manager requested that the Board find the Property Owner in violation and be given until March 16, 2024 (30 days) to come into compliance or impose a fine of **twenty-five dollars ($25.00)** ***Accum of Trash and Litter, Ch. 6 Sec. 6-900 (b) (1) (a-d), fifty dollars ($50.00) Exterior General Condition, Ch. 6 Sec. 6-1003 (a-p), twenty-five dollars ($25.00) Rental Business Tax, Ch. 6 Sec. 6-2003 and twenty-five dollars ($25.00) Storing Outdoors, Ch. 6 Sec. 6-900 (b) (11)*** per day until found in compliance.

Discussion amongst the Board members and staff.

Motion by Mr. Otero, seconded by Ms. Acosta, to approve Staff's recommendation and find the Property Owner in violation. Vote on the motion carried unanimously.

NON-COMPLIANCE:

None

LIEN REDUCTIONS

1. CE-17-761 – 1127 W King St.

The Code Enforcement Board held a public hearing on **2/15/2018**, at which time the Board found the owner, **Moto Werks LLC** in violation of the following:

- **Accum. Of Trash and Litter, Sec. 6-900 (b)(1)(a-d)**
- **Storage of Rec. Vehicles, App. A Art. XIII Sec. 14 (a-d)**

The Code Enforcement Board provided the owner sufficient time to correct said violation. Therefore, consistent with the Code Enforcement Board's Order a Non-Compliance Hearing was held on **3/15/2018.**

The lien ran at **$50.00** per day from **2/26/2018** until compliance was achieved on **4/13/2023**. Code records show onsite inspections were conducted by Officer's **Murdick, Gonzalez and myself**. The case was closed leaving a fine of **$93,580.00**.The current owner, **Moto Werks LLC**, is requesting that the lien be reduced to **Cost of Staff**.

Staff utilized the following factors in making its recommendation to reduce the lien:

- Whether the current owner owned the property at the time the violation(s) occurred; **Yes**
- Applicant resides at the property: **No, this is a commercial building**
- The number of violations related to the subject lien; **Two**

- Number of Inspections performed: **15**
- Property Taxes: **Taxes are paid to 2023**
- Other Liens: **Records show no outstanding liens on the property. No water liens**
- Property Inspection: **The property was inspected this morning, February 15, 2024 and was in-compliance before the Code Board Hearing. An inspection will also occur prior to the Council Meeting**

The current market value of the subject property; the current market value is **$262,330.00** according the Brevard County Property Appraiser as a **General-Commercial Building**.

Staff submits their cost sheet and the in the total amount of **$4,085.42**

Staff's recommendation is that the fine/lien be reduced to **$4,085.42** which is the cost of staff to prosecute this case. This reduction is based on the gravity of the violations, the length of time it took the property to come into compliance, and the total amount of the City's Cost.

Property owner was sworn in: Elena Swiden, 430 Sundoro Ct, Merritt Island

Ms. Swiden said she is half owner of the building and was unaware of the violations for 5 years after it was sited. She stated that she was not receiving the notices. Ms. Swiden explained that she was part owner in the business. She stated that she was bought out but had a lease with the tenant as the manager of the property. Ms. Swiden gave more information about selling the property and having a buyer for the property. More discussion amongst the Board members and staff.

Motion by Mr. Brown, seconded by Ms. Acosta, to approve staff's recommendation to City Council the lien reduction be in the amount of four thousand eighty-five dollars and forty-two cents **($4,085.42).** Vote: Yay (3) Nay (2) Motion Past

2. CE-21-250 – 633 S Varr Ave.

The Code Enforcement Board held a public hearing on **9/16/2021**, at which time the Board found the owner, **Rufus R Murphy Jr & Jeannine L Murphy** in violation of the following:

- **Accessory Structures, Sec. 6-1001 (g)**
- **Storing Outdoors, Sec. 6-900 (b)(11)**
- **Weeds, Sec. 6-1001 (d)**

The Code Enforcement Board provided the owner sufficient time to correct said violation. Therefore, consistent with the Code Enforcement Board's Order a Non-Compliance Hearing was held on **01/20/2022.**

The lien ran at **$75.00** per day from **11/16/2021** until compliance was achieved on **12/26/2023**. Code records show onsite inspections were conducted by Officer's **Murdick, Gonzalez and myself**. The case was closed leaving a fine of **$57,750.00**.The current owner, **Rufus R Murphy Jr & Jeannine L Murphy**, is requesting that the lien be reduced to **$0.00**.

Staff utilized the following factors in making its recommendation to reduce the lien:

- Whether the current owner owned the property at the time the violation(s) occurred; **Yes**
- Applicant resides at the property: **Yes**
- The number of violations related to the subject lien; **Three**
- Number of Inspections performed: **21**
- Property Taxes: **Taxes are paid through 2023**
- Other Liens: **Records show no outstanding liens on the property. No water liens**
- Property Inspection: **The property was inspected this morning, February 15, 2024 and was in-compliance before the Code Board Hearing. An inspection will also occur prior to the Council Meeting**

The current market value of the subject property; the current market value is **$281,970** according the Brevard County Property Appraiser as a **Single-Family Residence**.

Staff submits their cost sheet and the in the total amount of **$2,654.77**

Staff's recommendation is that the fine/lien be reduced to **$2,654.77** which is the cost of staff to prosecute this case. This reduction is based on the gravity of the violations, the length of time it took the property to come into compliance, and the total amount of the City's Cost. Mrs. Acosta had questions for Officer Mack.

Vice Chairman Brown asked staff what the total cost of the lien was. Officer Mack stated the lien was in the amount of $57,750.00. Vice Chairman Brown asked what

would be half of the cost for the lien. Mrs. Acosta stated that half the lien would be $28,875.00.

Property owner was sworn in: Rufus Murphy Jr., 633 S Varr Ave

Mr. Murphy explained why it took the length of time to fix the violations. Mr. Murphy was a contractor for the military in the middle east since 2015 working on nuclear plants. Mr. Murphy returned home in 2022 and was unaware of any violations or liens on the property as his wife was in late stages of multiple sclerosis did not let him know what was going on with the property. While Mr. Murphy was overseas when Covid 19 hit and he was unable to reenter the country. Mr. Murphy explained since he returned he made sure the violations were fixed. Vice Chair Brown wanted to make a motion and Chairman Roberts explained that there was no way that a motion was to be made for half of the lien when a business was given staff's cost. Attorney Babb-Nutcher explained also that Mr. Murphy's testimony was that he fixed the property before the Code Officer's could confirm it. If that's the testimony and its unrebutted testimony then that total fine should actually be a lot less. Mr. Otero asked questions of Mr. Murphy about who was living at the property when he was out of the country. More discussion amongst the Board members and staff.

Motion by Mr. Brown, seconded by Mr. Otero, to approve staff's recommendation to City Council the lien reduction be in the amount of two thousand six hundred fifty-four dollars and seventy-seven cents **($2,654.77).** Vote: Yay (2) Nay (3) **Motion does not pass.**

Motion by Mrs. Acosta, seconded by Mr. Roberts, to amend staff's recommendation to City Council the lien reduction be in the amount of one thousand five hundred dollars **($1,500.00).** Vote on the motion carried unanimously.

3. CE-22-50 – 2546 N Indian River Dr.

The Code Enforcement Board held a public hearing on **5/19/2022**, at which time the Board found the owner, **Jason S. ValaVanis & Louis A ValaVanis** in violation of the following:

- **Site Plan Approval Required, App. A Art. XIII Sec. 1(B)**

The Code Enforcement Board provided the owner sufficient time to correct said violation. Therefore, consistent with the Code Enforcement Board's Order a Non-Compliance Hearing was held on **9/15/2022.**

The lien ran at **$250.00** per day from **8/18/2022** until compliance was achieved on **10/30/2023**. Code records show onsite inspections were conducted by **Me**. The case was closed leaving a fine of **$109,510.00**.The current owner, **Jason & Lois ValaVanis**, is requesting that the lien be reduced to **$0.00**.

Staff utilized the following factors in making its recommendation to reduce the lien:

- Whether the current owner owned the property at the time the violation(s) occurred; **Yes**
- Applicant resides at the property: **No, this is a vacant residential land**
- The number of violations related to the subject lien; **One**
- Number of Inspections performed: **21**
- Property Taxes: **Taxes are paid through 2023**
- Other Liens: **Records show no outstanding liens on the property. No water liens**
- Property Inspection: **The property was inspected this morning, February 15, 2024 and was in-compliance before the Code Board Hearing. An inspection will also occur prior to the Council Meeting**

The current market value of the subject property; the current market value is **$66,000.00** according the Brevard County Property Appraiser as a **Vacant residential land**.

Staff submits their cost sheet and the in the total amount of **$3,033.26**

Staff's recommendation is that the fine/lien be reduced to **$3,033.26** which is the cost of staff to prosecute this case. This reduction is based on the gravity of the violations, the length of time it took the property to come into compliance, and the total amount of the City's Cost.

Property owner was sworn in: Lois ValaVanis, 3640 N Indian River Dr.

Mrs. ValaVanis stated that she didn't know anything about the lien as her husband was handling this property. Mrs. ValaVanis stated that she would except staff's cost. Attorney Babb-Nutcher said she remember this case as being a very extensive case. Attorney Babb-Nutcher said she believed that her office was involved in this case. Officer Gonzalez Acting Code Enforcement Manager stated that different options were given for him to correct the violations. More discussion amongst the Board members and staff.

Motion by Mrs. Acosta, seconded by Mr. Roberts, to approve staff's recommendation to City Council the lien reduction be in the amount of three thousand thirty-three dollars and twenty-six cents **($3,033.26).** Vote on the motion carried unanimously.

NEW BUSINESS:

None

FORECLOSURE:

None

ABATEMENT APPEALS:

None

Manager Announcements:

Acting Code Enforcement Manager wanted to give a Staff update to the Board Members. Dennis Bunt is no longer with the City. He resigned as of February 7, 2024 and has taken a position with another municipality. He would also like to take the opportunity for his service and dedication while he was working for the City. He worked for the City about 8 years of combined time. Dennis brought a lot of knowledge and everything related to code. He was a huge asset to the Police Department, the City and its citizens. We are grateful for his contributions and wish him the best in his future endeavors.

OTHER BUSINESS BY THE CHAIRMAN:

Chairman Roberts wanted to remind the Board Members of the Sun Shine Law. The Board Members are not to discuss the lien reductions and other cases brought before the Board with the City Council Members because it can cause possible legal issues. Mr. Otero wanted to be. clear that lien reductions could not be discussed with City Council. Chairman Roberts explained that it was kind of like tampering with the case.

Attorney Babb-Nutcher said it was a good idea just to not to talk about the cases anyway because this Board is quasi-judicial meaning that you sit as judges. So as judges you should not talk about the case with others afterwards because they could possibly come back to you and have a predisposed notion about what's going on in a case.

Attorney Babb-Nutcher said you can't discuss business off of the record with each other so if something needs to be discussed it would have to be on the recording. Vice Chairman Brown to let the residence come before the Board and discuss issues in the community. Attorney Babb-Nutcher asked if the Board gets a packet of information when they become Board Members. Code Coordinator explained there is information put in their binders for them to read and get them familiar with for example (Ch. 162, Sun Shine Law and other informational papers) Attorney Babb-Nutcher explained you cannot have public comment because it is a quasi-judicial board it is not designed for public comment and not appropriate for public comment. What would be appropriate

would be a presentation by herself or someone in the attorney's office to come and do a workshop because there are so many new members More discussion amongst the Board members and Attorney Babb-Nutcher. Chairman Roberts thinks a workshop would be good. Attorney Babb-Nutcher and the Code Enforcement Coordinator will work on getting a date for a workshop.

NEXT MEETING:

The next regular meeting of the Code Enforcement Board will be held on March 21, 2024.

ADJOURNMENT:

There being no further business the meeting adjourned at 7:28 PM.

Approved on this 21 day of March, 2024.

Lloyd Roberts, Chairman

Darla Crowl, Recording Secretary

Notary Public State of Florida
Darla D Crowl
My Commission HH 327608
Expires 11/11/2026