



CITY OF MIAMI SPRINGS, FLORIDA

The regular meeting of the Miami Springs Code Enforcement Board was held on Tuesday, May 7, 2013 at 7:00 p.m. in the Council Chambers at City Hall, 201 Westward Drive.

1) Call to Order/Roll Call

The meeting was called to order at 7:00 p.m. by Chairman Marlene Jimenez. Tex Ziadie called the roll.

Present: Chairman Marlene B. Jimenez
John Bankston
Rhonda Calvert
Vice-Chairman Walter Dworak
Jorge Filgueira
Robert Williams

Also Present: Code Compliance Officer Harold (Tex) Ziadie
Council Liaison-Councilman George Lob

Absent: Jacqueline Martinez-Regueira*

Tex Ziadie mentioned that member Jacqueline Martinez-Regueira was absent due to her father's illness and he had been praying for her father this week. Chairman Jimenez expressed the Board's well wishes for her father.

2) Invocation/Salute to the Flag

All present participated.

3) Approval of Minutes:

Minutes of the October 2, 2012 meeting were approved as written.

Member John Bankston moved to approve the minutes of October 2, 2012. Member Rhonda Calvert seconded the motion, which was passed unanimously by acclamation, all members voting "aye".

Tex Ziadie administered the oath to all who were present to give testimony.

4) OLD BUSINESS-None

5) NEW BUSINESS-Cases

1) Case# 05-2119
Address: 990 Morningside Drive
Owner: Jorge Wills
Violation: Maintenance of Property
Code Section 93-13
Request for Lien Reduction

Code Compliance Officer Tex Ziadie presented the case as follows:

On July 18, 2005, based on an anonymous complaint, an inspection of the property discovered various items needing repair on the house, including rotted wood on the roof, an inoperable vehicle, and other areas of the house that needed repair, like the wood around the rear screened porch, paint scaling, etc.

Subsequently and after numerous notices to the property owners (at that time Ms Mirtha and Ms Litzie Wills), this case was brought before the Code Enforcement Board on October 18, 2006. The Board ordered repairs to the house to be done within 90 days. Compliance was not achieved and the lien was placed on the property effective January 17, 2007 for an initial fine of \$250 and a daily fine following of \$25 per day.

Over subsequent years, and after additional notices to the owner, this case was brought before the Unsafe Structures Board on April 18, 2012. The Board ordered the house to be demolished. The owners appealed the Board's decision, but the decision was upheld at an appeal hearing held on June 20, 2012.

The house was subsequently demolished by the City of Miami Springs at the City's expense. The demolition was completed on September 29, 2012. This meant that the total period of the fine was 2,082 days. The total lien therefore at 2082 days times \$25 was \$52,050, plus the initial fine of \$250, or \$52,300.

The new owner, Mister Jorge Wills subsequently reimbursed the City for the cost of the demolition and is now requesting a reduction of the total fine. He was not the owner of record at the time of the above referenced events. The property belonged to his sisters, and although he made attempts to have the repairs done, he could not sign the permits required as his name was not on the deed.

The City of Miami Springs Building and Code Compliance Department estimates its cost in this case to be approximately. \$9,400.

At this point Tex displayed pictures from the initial violation and then pictures taken of the empty lot today. He then stated:

"It is the recommendation of the Code Compliance Department that if a lien reduction is granted, that it be accompanied by the owner's representation and agreement to begin to rebuild the property or market it for sale within a time certain period. In the meantime, the appellant needs to also represent and agree to properly maintain the property (cut the grass, etc.) within the guidelines of the current Code."

Judge (retired) John Gale spoke, representing Mister Wills. He stated briefly that the family had been through many issues through the years, losing two family members. Mister Wills had made every effort to repair the house, but he could not due to the fact that he did not own it and could not sign on the permits. They even considered filing for a partition of the property at one time, but by the time it would be accomplished, it would be too late. Mister Wills had even had a heart attack after he took control of the property in June of 2012. They are asking for help so he will have funds left to rebuild the property. They ask that the Board be as reasonable as they can be to help Mister Wills move forward.

The Board asked some questions:

- *Are the two sisters that owned the property previously still alive? (they are).
- *Had they made any attempts to start rebuilding? (no-waiting for Board's decision to know if they have enough funds).
- *Why hadn't Mister Wills done anything sooner? (he couldn't since both sisters would not sign).
- *Did both sisters have to sign? (Tex stated yes, since Mister Wills had originally told him about the unwillingness of the second sister to sign, he had been advised by the City Attorney that both sisters needed to sign in order to avoid any legal issues in the future).

Mister Wills spoke and said that he had made every effort to comply, taking care of the grass, moving the inoperable vehicle, paying the taxes, etc. He asked the Board to do away with the entire lien and not be charged the costs of \$9,400 either.

The Board asked Mister Wills what he would want the fine reduced to. He stated One Hundred Dollars.

The Board had additional discussion and stated to Mister Wills that this issue had gone on for six years and it was the longest running Code Compliance case in recent history.

Board member Rhonda Calvert made a motion to reduce the lien to \$11,900 (the \$9,400 cost figure plus \$2,500) with the following stipulations:

- 1-The new lien amount must be paid within 90 days.
- 2-If the lien is not paid within 90 days, the amount will revert to \$52,300.
- 3-Mister Wills must agree that he will begin the rebuilding process or offer the property for sale no later than January 1, 2014

Member John Bankston seconded the motion and it passed unanimously on roll call vote.

Mister Wills stated that he would agree to the terms. Tex Ziadie stated that an invoice from the Finance Department would be generated on Monday, May 13, 2013 and sent to Mister Wills at his address of record.

2) Case# 12-2229
Address: 1301 Westward Drive
Owner: Margaret Watson
Violation: Maintenance of Property
Code Section 93-13

Tex Ziadie presented the case as follows:

On 9-25-12, based on complaints and an on road inspection, Tex Ziadie met with the owner, Margaret Watson at the Senior Center on Prince Field, along with Senior Center Director Karen Rosson. A Courtesy Notice for painting the house and repairing the rotten wood around the house (trim, fascia, etc.) was given in writing to Mrs. Watson. The work was to be performed within 30 days.

After numerous follow up inspections and conversations with Mrs. Watson, from which it was determined that no work had been started, on February 28, 2013 the following letter was hand delivered to Mrs. Watson at her home by Tex Ziadie and Code Compliance Officer Christine Rodriguez.

“Dear Ms. Watson:

On September 5, 2013, based on complaints and an on road inspection, I met with you at the Senior Center on Prince Field, along with Senior Center Director Karen Rosson. A Courtesy Notice for painting your house and repairing the rotten wood around the house (trim fascia, etc.) was given in writing to you at that time. The Notice stated that the work was to be performed within 30 days.

To date, no work appears to have been done on the house. I have spoken to you at least twice since our meeting and you assured me that you were “working on it.” This letter shall serve as a Notice of Violation to you, that your house is not in compliance with the current Code. Follow up inspections have also revealed other maintenance of property issues. In order to bring this property into compliance, you need to do the following within the next thirty days:

- 1-Remove scaling paint and provide a new coat of paint on the house.***
- 2-Repair all rotting wood around the house on the trim and fascia.***
- 3-Remove all excess material in the yard and around the house, particularly in the front yard and on the porch.***

Please be advised that this Notice serves as your final notice to paint the structure and remove the excess material within thirty (30) days. Failure to comply with this Notice will result in this case being referred to the Miami Springs Code Enforcement Board.

Be aware that the Code Enforcement Board is empowered to levy fines, place liens and take other action to insure your compliance with the Code.

Your deadline for compliance is March 31, 2013” (A copy of the Code was inserted in the letter also, but it was not read out loud by Tex at this time.)

On April 10, 2013, no work appearing to have been started, a Summons to appear before the Code Enforcement Board at their May, 2013 meeting was issued to Mrs. Watson and delivered by the Police Department.

Since the issuance of the Summons, pre-painting and painting work appears to have been started. On a visit to the property on Sunday, April 28, 2013, Tex Ziadie observed wood removed from under the overhang of the front porch. Beams were exposed that seemed to have significant damage. Tex advised Mrs. Watson at that time that the replacement or repair of that wood required a permit.

At this point, Tex displayed pictures of the property from the date of the initial violation Notice and pictures from today.

Ruth McNaughton, the daughter of Margaret Watson spoke and stated that there was an error in the address on one of the documents, showing 249 Iroquois Street. Tex apologized for the error as it was copied from a case presented at the last meeting. Ruth said that they had been working on the house all along. The work was being done by herself and her husband. Her husband worked full time, so he could not be there all the time. She also stated that her mother was retired and on a limited income and she had not started receiving her pension yet. A church group had put improper paint on the house and it had to be removed. They had to pressure clean the house several times and scrape paint off and they were still working on it. She had a ladder and scraper in her vehicle and couldn't even carry passengers. They had primed the building two and a half weeks ago, but some areas were still peeling so they were still scraping. They asked for the Board's endurance to give them time to finish the job.

The Board asked what would be done about the doors and wood that needed repair. Mrs. McNaughton said that the doors and wood would be replaced. She understood that a permit was needed for that work. Mrs. Watson spoke and stated that she had not been able to do any work for several days as she had a bout of cellulitis and her leg was swollen.

Member Robert Williams made a motion that Mrs. Watson be granted ten days to remove the excess material from the yard, no later than May, 18, 2013. If she does not comply, then a fine of \$25 per day would be levied. The fine would start from today's date of May 7, 2013. In addition, Mrs. Watson would be granted until July 8, 2013 to finish the painting and repairs (wood and doors) on the house. If she does not comply, then a fine of \$25 per day would be levied. The fine would start from today's date of May 7, 2013. Member John Bankston seconded the motion. On roll call vote, the motion passed 5 votes to 1, with member Filgueira voting "nay".

3) Case# 12-2230
 Address: 1301 Westward Drive
 Owner:Margaret Watson
 Violation: Inoperable Vehicle
 Code Section 71-04
 Request for Fine Reduction

Tex Ziadie presented the case as follows:

On 9-25-12, based on complaints and an on road inspection, Tex Ziadie met with the owner, Margaret Watson at the Senior Center on Prince Field, along with Senior Center Director Karen Rosson. A Civil Infraction Notice for having too many Inoperable Vehicles on the property (3) was given to Mrs. Watson. The Notice allowed seven days to remove one of the vehicles or make one of them operable.

Tex explained the there were three vehicles on the property, one in the rear yard with a cover, one in the front driveway with a cover and one in the front driveway that was full of excess material (papers, bags, etc.) and had no valid tag. He had told Mrs. Watson that she either needed to get rid of one of the vehicles or put one of them in operable condition.

After numerous follow up inspections and conversations with Mrs. Watson, the violation still existed. On February 28, 2013, Tex Ziadie and Code Compliance Officer Christine Rodriguez delivered the following Final Civil Infraction Notice to Mrs. Watson at her home.

FINAL CIVIL INFRACTION NOTICE!

ADDRESS: **1301 WESTWARD DRIVE**

The residents of Miami Springs have always taken great pride in maintaining their properties in keeping with the theme of "Beautiful Miami Springs" and we appreciate your efforts. While making inspections in your area today, I noticed the following items needing your attention and compliance:

CODE SECTION: 71-04

Inoperable Vehicles on Property.

There are three inoperable vehicles on the property. One of them, the blue Chevrolet sedan in the front driveway is uncovered.

CORRECTIVE ACTION NEEDED:

Remove at least one vehicle from the property. Insure that the remaining two vehicles are covered with form fitting car covers.

This is a Notice of Civil Infraction. If no action is taken **within 7 days**, a Civil Infraction Ticket for \$100 will be written!

Tex stated that the Code reference was listed on the Notice as well, but it was not duplicated in the presentation.

On March 19, 2013, after no significant action appeared to have been taken, Tex Ziadie delivered a Uniform Civil Violation Notice (ticket #01855) for \$100 to Mrs. Watson at her home. The ticket was posted on the front door and then Mrs. Watson was seen in the rear yard and a verbal Notice was also given. Code Compliance Officer Christine Rodriguez accompanied Tex on this visit. Mrs. Watson was advised that the \$100 penalty would continue daily (as it states on the back of the ticket) until the violation was corrected. Mrs. Watson stated that she understood. Since Mrs. Watson had asked that her daughter, Ruth McNaughton, be kept advised of what was happening, Mrs. McNaughton was called on the cell phone and advised of the ticket as well.

On March 29, 2013, Tex Ziadie received a voice mail from Ruth McNaughton. In the voice mail, she stated that the car was now running, but they still had a problem with the fuel pump which her husband was going to fix. That afternoon, Tex drove by the house and Mrs. Watson and Mrs. McNaughton were taking material out of the car.

On Friday, the 5th of April Mrs. McNaughton called again and said that Tex could come by and see the car operating on Saturday the 6th at 1200. Shortly after, Tex drove by again and Mister McNaughton was there at the property and had the car elevated on a jack. On Saturday, April 6, 2013, Tex met Mrs. Watson and Mrs. McNaughton at the house and they started the car and drove it slightly and it had a valid tag on it. Mrs. McNaughton stated that there might still be a problem with the fuel pump in being able to drive any long distance, but her husband would finish fixing it. The daily fine was closed with a charge for ten days from the 19th of March when the ticket was written to the 29th, when Mrs. McNaughton left the voice mail, at \$100 per day.

In subsequent conversations with Mrs. Watson and Mrs. McNaughton, after they received the Invoice for the additional \$900, they stated that the car had been in compliance since March 23rd. However, no notice to that effect had ever been given to Code Compliance, nor did the inspections indicate that this was the case.

On April 29, 2013, Mrs. Watson paid the \$75 application fee to file an appeal of the \$900 amount.

At this point, Tex displayed pictures of the vehicle on the date of the initial violation Notice and pictures from today, showing the valid tag. Tex pointed out that on the date that he last inspected the vehicle on April 6th, it was completely empty of excess material. However, today, as the pictures showed, the car has excess material in it once again.

He then stated: "It is the recommendation of the Code Compliance Department that the fine of \$1,000 that has been levied be upheld by the Board, especially in light of the fact that the first Notice to Mrs. Watson was given six months prior to the ticket being written."

Mrs. McNaughton spoke and said that nowhere on the ticket did it say that the fine was \$100 per day.

Tex asked to see the ticket and read the following from the rear of the ticket:

"Failure to pay Civil Penalty and correct violations or file a request for administrative hearing by the dates shown shall constitute a waiver of your right to hearing and such waiver shall constitute an admission of violation. Each day of continued violation shall be deemed a continuing violation subject to additional penalty in the same amount without the need for issuance of additional civil violation notice."

Tex stated also that Mrs. Watson had not applied for the hearing within the deadline, but he had allowed her to apply as a courtesy, as had been done in the past with other appellants.

Mrs. McNaughton stated that nowhere on the ticket does it state that they have to notify the City when they comply. She thinks that Tex confused two of her voice mail messages and that he did not understand that compliance had been within 6 days.

Tex suggested that the Board listen to the recording of the voice mail from Mrs. McNaughton from March 29th. They agreed and he played the recording as follows (transcribed verbatim):

“(Voice mail announcement- “March 29th at One Thirty Nine P.M.”)”

“Hi Tex, it’s Ruth um, I see that today’s your day off, um If my mother’s car has um a valid license plate for it, with a current registration ah would that be adequate for now? John started the car and it runs, but unfortunately now it needs a new fuel pump and he didn’t want to drive it and have it um stop on the road, so I’m going to put the new plates on it and the current registration for her car and then we’ll try to fix the fuel pump on the weekend, um If you’re not available to call me back, just um take this as notice and um I’ll speak to you when you are available.”

Tex stated that the Code Compliance Department’s standard procedure when a violation is issued, is that on the date of the deadline we go by the property to confirm whether there is compliance or not. He had done this several times after the deadline. He had also spoken to Mrs. Watson and explained it to her.

Mrs. McNaughton stated that her mother was over 80 years old and that she didn’t always understand.

Tex stated that Mrs. Watson understood perfectly well.

Mrs. McNaughton asked Tex not to interrupt her and said that sometimes her mother understood but she shortly after forgot what was told to her. Tex apologized and asked Mrs. McNaughton to continue.

Mrs. McNaughton asked how he knew that it was still in violation after the deadline.

Tex stated that he had driven by the property numerous times and viewed the vehicle.

Mrs. McNaughton asked how he could know if it was running or not without seeing it driven or started.

Tex responded that the Code has a number of criteria to determine if a vehicle was operable or not. If it was full of papers so that you couldn’t even get into it, then it was not operable.

The Board asked what their options were in this case. Tex stated that they could either uphold the decision of Code Compliance and leave the \$1,000 fine in place, or they could overturn or modify it and lower the fine.

Board member Walter Dworak made a motion that the action of Code Compliance and the fine of \$1,000 be upheld. Member John Bankston seconded the motion and it passed unanimously on roll call vote.

Mrs. McNaughton asked if Mrs. Watson could be given time to make the payment as she was on a limited income and \$1,000 was a lot of money.

Tex stated that the Finance Department could set up a payment plan for her to pay on a periodic basis. She needed to speak to the Finance Department and they would arrange it for her.

6) Council Liaison Report and Request

Tex Ziadie apologized for not introducing the new Council Liaison, Gorge Lob. Mister Lob was introduced and thanked the Board and told them that he was available to help them with anything that they needed in the meetings or outside of them.

Tex Ziadie gave the Board an update on the staffing of the Building and Code Compliance Department. He also stated that the property at 249 Iroquois Street that had been on the agenda in October had been sold and the new owners were making progress in getting the permits renewed and starting the work to finish the addition and do the paint and stucco work.

7) Adjournment

There being no further business the meeting was duly adjourned at 8:45 p.m.

Respectfully Submitted:



Tex Ziadie
Code Compliance Officer
Director-Building Department
Acting as Clerk of the Board

Approved as written during meeting of: 08-06-13

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.

NOTE TO CITY CLERK:

THERE APPEARED TO BE A MALFUNCTION IN THE DCR RECORDING SYSTEM. THEREFORE THE MEETING WAS NOT VOICE RECORDED.