

AGENDA
CODE ENFORCEMENT BOARD
Tuesday, August 18, 2015
1:00 p.m.
3048 S. Atlantic Avenue
Daytona Beach Shores, FL

Notice is hereby given to all interested parties that if a person should decide to appeal any decision made at the aforementioned meeting of the Code Enforcement Board, such person will need a recording of the proceedings conducted at such meeting, and for such purpose or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. NOTE: individuals covered by the American with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the Office of the City Clerk at the City Hall of Daytona Beach Shores or by telephone at 763-5353 at least seven working days prior to the meeting.

CALL TO ORDER

MINUTES OF PREVIOUS MEETING

1. Minutes from the May 19, 2015, meeting

PRELIMINARY STAFF COMMENTS

Indication of any Cases removed from the Agenda

OLD BUSINESS

2. Second Compliance Hearing

Case #: CDEF2010-107
Address: 3209 S. Atlantic Avenue
Owner: Avista Properties II, LLC
Parcel ID #: 5335-01-01-0130

In violation of Code of Ordinances of the City of Daytona Beach Shores, Chapter 13, Section 13-5.Growth of weeds restricted. & Appendix "G" – Land Development Code, Chapter 6, Section 6-7.1., & Chapter 14, Section 14-52.9.(B) & (D):

- Grass/weeds over 12" high *(Compliant by Aug 24, 2011)*
- Pole signs advertising a business not actively conducted *(Compliant by Aug 24, 2011)*
- Open storage of chairs on pool deck *(Compliant by Aug 24, 2011)*
- Weeds, trash, and debris in parking area south of building and in planter/fountain area west of building *(Compliant by Aug 24, 2011)*
- Standing water in fountain west of building, creating a breeding ground for mosquitoes *(Compliant by Aug 24, 2011)*
- Water in pool green and untreated, creating a breeding ground for mosquitos *(Compliant by Aug 24, 2011)*
- Paint peeling and deteriorated at north building face and east balconies *(Compliant by Jan 30, 2014)*
- Area where porte-cochere was removed has not been restored to match adjacent surface *(Compliant by August 5, 2013)*
- Stucco delamination at pool deck *(Compliant by November 18, 2013)*

- Concrete spalling at west building face, ground floor and above (*Compliant by Dec 22, 2011*)
- Concrete spalling from concrete decks on all sides of building (*Compliant by Dec 22, 2011*)
- Retaining wall deteriorated with concrete spalling (*Compliant between Nov 6, 2014 & Feb 11, 2015*)
- Landscaping is not neat and well-maintained (*Compliant by Aug 24, 2011*)

Initial Hearing Date: December 7, 2010

Board-Ordered Compliance Date: May 2, 2011

Actual Compliance Date: February 11, 2015

Fined Days in Non-Compliance: 1,014

Board-Ordered Fine: \$250.00 per day

Total Accrued Fine: \$253,500.00

Board-Approved Administrative Fees: \$146.45

Additional Administrative Fees Requested: To be determined before CEB meeting

Date Stipulated Agreement Signed: June/July, 2011

Stipulated Agreement Required Compliance Date: June 30, 2014

Stipulated Agreement Extended Compliance Date: December 30, 2014

Actual Stipulated Agreement Compliance Date: April 2, 2015

Days of Non-Compliance with Extended Stipulated Agreement Date: 91

3. First and Second Compliance Hearings

Case #: CDEF2014-85

Address: 2904 River Point Drive

Owner: Sophie Petropoulos, a/k/a Sophie Kay Petropoulos, a/k/a Sophie Kay Petros

Parcel ID #: 5327-09-00-0120

In violation of Code of Ordinances of the City of Daytona Beach Shores, Chapter 13, Section 13-5.Growth of weeds restricted. & Appendix “G” – Land Development Code, Chapter 5, Section 5-10.Numerals., & Chapter 14, Section 14-52.9.(B)(17) & (D)(12) in the following manner:

- Weeds over 12” high in places across lawn (*Compliant by Ordered Date*)
- Address numerals on the home, if present, are not visible from the right-of-way (*Compliant by July 6, 2015*)
- Vehicle sitting in driveway without evidence of current license tag is outdoor storage (*Compliant by July 6, 2015*)
- Landscaping not “kept in a neat and well-maintained condition” (*Compliant by Ordered Date*)

Initial Hearing Date: January 20, 2015

Board-Ordered Compliance Date: February 19, 2015

Actual Compliance Date: July 6, 2015

Fined Days in Non-Compliance: 132

Board-Ordered Fine: \$100.00 per day

Total Accrued Fine: \$13,200.00

Board-Approved Administrative Fees: \$140.98

Additional Administrative Fees Requested: \$76.31

4. First Compliance Hearing

Case #: CDEF2014-102
Address: 2071 S. Atlantic Avenue, Unit 105, Daytona Beach Shores, FL 32118
Owner: Nicole Mosley
Parcel ID #: 5315-05-04-0105

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Chapter 13, Section 13-4. *Maintaining unsafe premises*. And Appendix “G” – Land Development Code, Chapter 5, Section 5-6. *Building Code adopted.*, which refers, in part, to the *Florida Building Code*, , Chapter 1, Section 105.1. *Required.*, & Section 110. *Inspections*, and Appendix “G” – Land Development Code, Chapter 14, Section 14-52.9.(B)(17), (C). *Unsafe premises.*, and (D)(2). in the following manner:

- No permits have been obtained to repair the fire and/or water damage or mitigate the potential for damage to neighboring units
- Electrical work is unpermitted in that the electrical permit numbered 20141361 was closed by the contractor without a final inspection
- Premises are not free from health hazards in that fire and water damaged areas of the unit have not been repaired or replaced
- Unit is fire damaged and has not been cleared to be safe for human occupancy
- Areas weakened by the fire and/or water damage have not been repaired or replaced

Initial Hearing Date: April 21, 2015
Board-Ordered Compliance Date: May 21, 2015
Board Ordered Fine: \$250.00 per day
Board Approved Administrative Fees: \$140.98
Additional Administrative Fees Requested: \$76.31

5. First Compliance Hearing

Case #: FCDEF2014-121
Address: 2071 S. Atlantic Avenue, Unit 105, Daytona Beach Shores, FL 32118
Owner: Nicole Mosley
Parcel ID #: 5315-05-04-0105

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Chapter 11, Section 11-1. *Florida Fire Prevention Code adopted by reference.*, which refers, in part, to the NFPA 72, 2002 Ed., Chapter 11. and to the NFPA 13, 2002, Ed., Chapter 8, Section 8-3. in the following manner:

- Lack of power to the unit prevents smoke alarms from being compliant with code, which requires a commercial power supply and a battery backup
- Missing ceiling section makes the sprinkler head coverage inadequate due to the possibility of altered heat accumulation and how that affects head response

Initial Hearing Date: April 21, 2015
Board-Ordered Compliance Date: May 21, 2015
Board Ordered Fine: \$250.00 per day
Board Approved Administrative Fees: \$140.98
Additional Administrative Fees Requested: \$76.31

NEW BUSINESS

6. Initial Hearing

Case #: CDEF2014-106
Address: 2043 S. Atlantic Ave., Unit 415, Daytona Beach Shores, FL
Owner: Barry W. Barks
Parcel ID #: 5316-30-00-4150

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

7. Initial Hearing

Case #: CDEF2014-108
Address: 2043 S. Atlantic Ave., Unit 419, Daytona Beach Shores, FL
Owner: Rose M. Vegren
Parcel ID #: 5316-30-00-4190

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**
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8. Initial Hearing

Case #: CDEF2015-50
Address: 3135 S. Atlantic Ave., Daytona Beach Shores, FL
Owner: Tristar Lodging, Inc.
Parcel ID#: 5334-02-12-0180

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 14, Section 14-52.9.(B)(16), (C), & (D)(1).

- **Paint/stucco is peeling/delaminating above the porte-cochere, west building face**
- **Stucco is delaminating in multiple places, south and east building faces**
- **Balcony slabs are structurally flawed in multiple places on south and east building faces, rebar/pre-stressed cables exposed**
- **Painted surface is discolored /altered above porte-cochere, west building face**
- **Painted surfaces are discolored, south and east building faces**

REMARKS OF STAFF

9. The next CEB meeting will take place on Tuesday, September 15, 2015, at 1:00 P.M.

REMARKS OF BOARD MEMBERS

ADJOURNMENT

MEETING FORMAT Pursuant to Chapter 2, Section 2-36, VIII, Municipal Code

MINUTES
CODE ENFORCEMENT BOARD
May 19, 2015
3048 S. Atlantic Avenue Daytona Beach Shores, FL

Board Members Present: Larry Saffer, Sally Dowling, Lowell Wynn, Eric Datz, Larry Kittinger, Donald Bauknecht, and Ike Ofer. **Staff Present:** Board Attorney Lonnie Groot, Fred Hiatt, Gwyn Herstein, Steve Edmunds and Tom Squires.

CALL TO ORDER: The Chair called the meeting to order at 1:13 pm.

The Board Attorney swore in any witnesses for the day.

MINUTES OF PREVIOUS MEETING

1. Approval of Minutes from the Code Enforcement Board Meeting on April 21, 2015

Mr. Kittinger moved, seconded by Mr. Ofer to approve the minutes of April 21, 2015.

PRELIMINARY STAFF COMMENTS

2. Indication of any Cases removed from the Agenda

No cases were removed from the agenda.

OLD BUSINESS

3. First Compliance Hearing

Case #: CDEF2014-105
Address: 2043 S. Atlantic Avenue, Unit 203, Daytona Beach Shores, FL
Owners: Ted Coutchavlis
Parcel ID #: 5316-30-00-2030

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.1. *Building Occupancy*. in the following manner:

- **The unit referenced above, in a building designed for short-term, transient occupancy, is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

Initial Hearing Date: March 17, 2015
Board-Ordered Compliance Date: April 16, 2015
Board-Ordered Fine: \$150.00 per day
Board-Approved Administrative Fees: \$140.98
Additional Administrative Fees Requested: \$ 76.31 (Total: \$217.29)

The following disclosed that they had been contacted by the Daytona News Journal but made no comment to the reporter: Sally Dowling, Don Bauknecht and Larry Kittinger.

Ms. Herstein asked that each document provided by the City and the three pages of background information be accepted into evidence. The Chairwoman accepted the documents into evidence. The case began on December 30, 2014 and came before the board on March 17th. The board found

the property in violation and gave the Respondent until April 16, 2015, to gain compliance. An Authorization to Represent form from Attorney Trovato was received on April 10th. The city fulfilled two public records request for his office on April 14th and 15th. The property was not in compliance by the Board's ordered date of April 16th, so an Affidavit of Non-Compliance was generated and good service was achieved. The city received a Motion for Continuance and Stay of Fines for the case and responded back. Today is a First Compliance Hearing, an opportunity for the board to determine if the Respondent was compliant by the board's ordered date. Staff requested that the board find the property in violation and impose daily fines for 33 days with a total of \$4,950.00. Ms. Herstein requested additional Administrative Fees in the amount of \$76.31 for a total of \$217.29. She also requested that the fine continue until the property became compliant.

Attorney Trovato spoke for Mr. Coutchavlis. He felt that there was no evidence given to show non-compliance by his client. He stated that his client was not able to attend earlier hearings due to health reasons. He referred to Ordinance 1999-20 that allows ownership for a hotel unit and said he can choose to live in it or rent it out. Mr. Coutchavlis has agreed to come into compliance by the effective date. Attorney Trovato read an affidavit into the record which stated that his client is a long term resident of the city. He is the owner of the unit but he is not using it as a permanent residence. He stays at other addresses throughout the year and has no intention of renting his unit out to others on a long term basis. Attorney Trovato stated that it has been the presumption of the city staff that he lives there on a permanent basis. He does use the address for his mail and as a means of identification. If the city accepts the affidavit, he will no longer be in violation of the city codes. Board Attorney Groot instructed the board that everything they had just heard was not evidence for the board to consider. Their job is to determine whether or not the property owner was compliant by April 16th. Attorney Trovato stated that it was the job of the city to prove the owner is not in compliance and not the other way around. Ms. Herstein pointed out that she was not contacted in any manner to demonstrate that compliance had been achieved. Attorney Trovato called Mr. Coutchavlis to speak on his own behalf. He stated that he has lived in the unit since 1999. Mr. Coutchavlis affirmed that he signed the affidavit that was read by his attorney and he understood it. He stated he could not attend the earlier hearing as he had received the notices too late. Attorney Trovato asked Mr. Coutchavlis if he understood that as long as he claimed that he won't live there longer than 30 days at a time he was ok, and he replied, yes. He felt he was in compliance when he signed and notarized the affidavit on May 16, 2015. Mr. Wynn inquired how often he went out of town and he responded that he left at least once per month on the weekend as work allowed. During the holidays he goes out of state. Mr. Ofer asked if he notified the property assessor and Mr. Coutchavlis responded that he was not aware he had to. Attorney Trovato informed the board that Mr. Coutchavlis' sworn testimony that he has made the required changes as suggested puts him into compliance as of April 16th even though he signed the affidavit on May 16th. Ms. Herstein noted that the Finding of Facts specifically ordered him to contact the city to advise that compliance was achieved. That was not done. She asked Mr. Coutchavlis where he received his mail. Attorney Trovato objected to this question. Ms. Herstein rephrased it to ask if he received his mail at the 2043 S. Atlantic address and he replied "some mail". Ms. Herstein pointed out that Mr. Coutchavlis had stated earlier that he had not received earlier mailing by the city, but that is the address noted in the attorney-prepared affidavit at which he is to receive mail. Attorney Trovato replied that the mail is left at the front desk and it can take some time for him to pick up. Ms. Herstein asked if 2043 S. Atlantic Avenue unit 203 was his permanent residence and he replied no. she followed up with if not, where is your permanent place of residence. Mr. Coutchavlis stated he did not have to divulge that. He was asked if he understood that if he told staff and the board where his permanent residence was, it could help to determine if he was compliant. He responded that it was not up to him to prove where he lived and his testimony was the proof. Mr. Kittinger asked if he took all his personal belongings with him when he went out of town. He responded that he left them in the unit as he does not rent it out. Ms. Dowling inquired

about his homeowners insurance and he replied that he does have it. She asked if he noted the property as his permanent residence or a second home. He replied it was just homeowners insurance. Ms. Herstein inquired as to why Mr. Coutchavlis had not signed an affidavit similar to the sample one that the city had provided or had he not seen it. He responded that he had seen it. She followed up with asking what part of the affidavit he did not agree with so that he couldn't sign it. Attorney Trovato stated that he was not obligated to sign it by his advice. Ms. Herstein asked again as to what part of the document he didn't agree with. Chairman Dowling over-ruled and asked Mr. Coutchavlis to answer. After looking at the document in question for a few minutes, Mr. Coutchavlis stated that his name was not John Doe and he didn't live in Unit 101, as the sample affidavit had stated, and it asked for his permanent residence which he stated is private. That is why he hadn't contacted the city himself. Ms. Herstein asked which box on the voter registration application he checked for 2043 S. Atlantic Avenue Unit 203, his home address or mailing address. He responded with mailing address but that he did have another mailing address. She asked why he had not provided any information by the Board's ordered date of April 16, 2015. He responded that he felt intimidated and wanted to seek the advice of an attorney. Ms. Herstein had no further questions. Attorney Trovato stated that he had no other evidence. Ms. Dowling asked the board if they had any other questions. Mr. Saffer asked Mr. Coutchavlis to give the board the dates from this year when he moved out of the unit. He responded that as best he can remember, in January, he spent New Year's Day and the day after out of town. He went to Orlando in February and spent overnight there. He spent two days in March in St. Augustine. Board Attorney Groot explained that the hearing was closed and the evidence is before them. The board had issued an order asking for compliance by April 16, 2015. The evidence is the Affidavit of Non-Compliance, testimony from the Respondent and the city staff. Attorney Trovato asked if he could make a closing statement and the chairman agreed. He apologized to the board. He did not want to come across as adversarial. He is here to help and try to resolve the issue. He wants the unit owners to gain compliance. He stated that his client had orally testified that he has gained compliance by the board's ordered date and there is no evidence contrary to that. He has a signed affidavit that he understands the rules he has to follow in the future. The chairman asked for the city to give a closing statement as well. Ms. Herstein noted that the Findings of Fact had been issued and an Affidavit of Non-Compliance had been presented. No evidence has been presented to show that the property had gained compliance as of April 16th. Staff is reliant on the property owner to contact the city as the violation is not one that can be seen by simply looking at the property. Chairman Dowling asked the board for a motion.

Mr. Bauknecht moved, seconded by Mr. Kittinger that based on the testimony given and the evidence presented today regarding Ted Coutchavlis at 2043 S. Atlantic Avenue #203, Case Number CDEF2014-105, Parcel Number 5316-30-00-2030, to find that the Respondent has failed to comply with the Board's Order of March 17, 2015, and to impose a fine in the amount of \$150 per day for each and every day the violation continues as stated in this Board's prior Order, plus an Administrative Fee of \$217.29 against the Respondent, and the Respondent is further ordered to contact the Code Enforcement Office to verify compliance with the Orders entered in this case.

Vote: Motion passed (summary: Yes = 5, No = 2).

Yes: Donald Bauknecht, Eric Datz, Larry Kittinger, Larry Saffer, Sally Dowling.

No: Ike Ofer, Lowell Wynn.

NEW BUSINESS

4. Initial Hearing

Case #: CDEF2014-103
Address: 2043 S. Atlantic Ave., Unit 127, Daytona Beach Shores, FL
Owner: Richard Pauk
Parcel ID #: 5316-30-00-1270

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

Ms. Herstein asked that each document provided by the City be accepted into evidence including the three page background information sheet. The Chairwoman accepted the documents into evidence. On December 30, 2014, a Notice of Violation was sent by certified mail and good service was achieved. Documents were shown to establish this was Mr. Pauk's primary residence since 2010. They include tax notices and a Final Summary Judgement for an unrelated case. On March 17th, the case was brought to the board but an order for continuance was granted to obtain legal counsel. A Notice of Hearing was mailed on April 7th and good service was achieved. The office received an Authorization to Represent Form by Attorney Trovato's office on April 10th. Records requests submitted by Atty. Trovato were fulfilled on April 14th and April 15th. The meeting time was changed from 1:00 pm to 2:00 pm on April 15 due to a scheduling conflict. This change was relayed to all attorneys with cases on the agenda and Respondents without attorneys were called, emailed, or spoken with face-to-face. The case came before the board on April 21st and Attorney Trovato requested a continuance as he had just taken on the case and needed to review the records received. The continuance was granted by the board. The Notice of Hearing was generated and sent by certified mail on May 1st. Good service was achieved. Ms. Herstein showed a mortgage document (4-37) -for another unit where the title company felt compelled to add that this will not be the homestead for the mortgager. Staff requested that the board find the Respondent in violation and give 30 days to gain compliance. A fine of \$150 per day was recommended and reimbursement of the Administrative Fee in the amount of \$140.98.

Attorney Trovato spoke on behalf of Mr. Pauk. He inquired how living in the unit was a violation. Ms. Herstein responded that the building was not designed for long term occupancy. Mr. Trovato asked how that was determined. Ms. Herstein replied that a code enforcement case by the Castaway Condo Association brought the property to the attention of staff. Both the Front Desk and daily maid service had been discontinued. Attorney Trovato objected to the answer but Chairman Dowling overruled. The City was informed that the Castaways property was not being used as hotel any longer and staff began to investigate. They looked at homestead exemptions as red flags for primary residence and permanent addresses. Attorney Trovato asked for a dismissal as he felt there was no evidence presented by the city. Mr. Wynn inquired how the board would prove whether someone is living there or not. Mr. Ofer wanted to know what information is requested on the homestead exemption form and if there was a penalty for lying. Mr. Saffer inquired if the board can determine if someone is living at a residence just using two pieces of information. Mr. Bauknecht was concerned for the life safety issues of the building that have been brought up at previous meetings. Ms. Dowling felt the evidence was enough to show permanent residence as nothing was offered against it.

Mr. Datz moved, seconded by Mr. Kittinger that based on the testimony given and the evidence presented today regarding Richard Pauk at 2043 S. Atlantic Avenue #127, Case Number CDEF2014-103, Parcel Number 5316-30-00-1270, find the property in violation of Land Development Code Chapter 5 Section 5-5, and that the Respondent be Ordered to

correct the violation on or before June 19, 2015, and pay an Administrative Fee of \$140.98. In the event the Respondent does not comply with the Order, a fine of \$150 will be imposed for each and every day the violation continues past the aforesated date and additional Administrative Fees may be approved by the Board at subsequent hearings and imposed. The Respondent is further ordered to secure all required permits before beginning correction of said violation and to contact the City of Daytona Beach Shores Code Enforcement Office to report and verify compliance with this Order. Any future reoccurrence of this Code violation by Respondent will be treated as a Repeat Violation for which a fine of up to \$500.00 per day may be imposed.

Vote: Motion passed (**summary:** Yes = 5, No = 2).

Yes: Donald Bauknecht, Eric Datz, Larry Kittinger, Lowell Wynn, Sally Dowling.

No: Ike Ofer, Larry Saffer.

The board took a five minute recess.

5. Initial Hearing

Case #: CDEF2014-104
Address: 2043 S. Atlantic Ave., Unit 201, Daytona Beach Shores, FL
Owner: Thomas E. Marr
Parcel ID #: 5316-30-00-2010

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

The meeting continued at 3:00 pm when the board came back from their break.

Director Hiatt asked the board to continue the next three cases that dealt with the Castaways residents. Staff would like time to prepare for the more formal judicial procedures under which these cases are being handled. Attorney Trovato did not object to the continuance.

Mr. Ofer moved, seconded by Mr. Wynn that case numbers 5, 6, and 7 be continued to the Code Enforcement Board meeting of June 19, 2015 or the next regularly scheduled meeting.

Vote: Motion passed (**summary:** Yes = 6, No = 1).

Yes: Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

No: Donald Bauknecht.

6. Initial Hearing

Case #: CDEF2014-106
Address: 2043 S. Atlantic Ave., Unit 415, Daytona Beach Shores, FL
Owner: Barry W. Barks
Parcel ID #: 5316-30-00-4150

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix “G” – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

7. Initial Hearing

Case #: CDEF2014-108
Address: 2043 S. Atlantic Ave., Unit 419, Daytona Beach Shores, FL
Owner: Rose M. Vegren
Parcel ID #: 5316-30-00-4190

Violations: Code of Ordinances of the City of Daytona Beach Shores, Appendix “G” – *Land Development Code*, Chapter 5, Section 5-5.

- **The unit referenced above, in a building designed for short-term, transient occupancy is being occupied as though it were designed for multi-family, residential occupancy, without meeting the requirements for such**

8. Initial Hearing

Case #: PCDEF2015-30
Address: 2615 S. Atlantic Ave., Unit 1J, Daytona Beach Shores, FL
Owner: Wells Fargo Bank NA
Parcel ID#: 5322-22-00-001J

In violation of: *Code of Ordinances of the City of Daytona Beach Shores*, Appendix “G” – *Land Development Code*, Chapter 5, Section 5-6. *Building Code adopted.*, which refers, in part, to the *Florida Building Code*, Chapter 1, Section 105.1. *Required.*

- **Plumbing, electrical, and building work done without permits**

Ms. Herstein asked that each document provided by the City be accepted into evidence. The Chairwoman accepted the documents into evidence. The property was found in violation of work being done without obtaining the proper permits. On February 16, 2015, Tom Squires was inspecting sliding doors for the unit when he observed a kitchen and bath remodel underway. He issued a Stop Work Order and advised that permits were required. On March 4th, a building permit was submitted. The contractor was advised that both a plumbing and an electrical permit were also required before it could be reviewed. On March 29th no other permits were applied for so a Notice of Violation was sent and good service was achieved. A review on May 1st still showed no other permit applications received. A Statement of Violation/Notice of Hearing was sent by certified mail and good service was achieved. Ms. Herstein also called the contact number on the building permit May 12th and left a message. She asked Building Inspector Tom Squires if the facts stated and documents shown were true and accurate. He responded affirmatively. Staff recommended 30

days to correct the violation or a fine of \$150 per day be imposed. Reimbursement of the Administrative fees of \$140.98 was also requested. No one appeared for the Respondent.

Mr. Kittinger moved, seconded by Mr. Ofer that based on the testimony given and the evidence presented today regarding Wells Fargo Bank NA at 2615 S. Atlantic Avenue Unit 1J, Case Number PCDEF2015-30, Parcel Number 5322-22-00-001J, find the property in violation of Land Development Code Chapter 5, Section 5-6, and that the Respondent be Ordered to correct the violations on or before June 19, 2015, and pay an Administrative Fee of \$140.98. In the event the Respondent does not comply with the Order, a fine of \$150 will be imposed for each and every day the violation continues past the aforesated date and additional Administrative Fees may be approved by the Board at subsequent hearings and imposed. The Respondent is further ordered to secure all required permits before beginning correction of said violations and to contact the City of Daytona Beach Shores Code Enforcement Office to report and verify compliance with this Order. Any future reoccurrence of this Code violation by Respondent will be treated as a Repeat Violation for which a fine of up to \$500.00 per day may be imposed.

Note: Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Donald Bauknecht, Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

9. Initial Hearing

Case #: PCDEF2015-29
Address: 3815 S. Atlantic Ave., Daytona Beach Shores, FL
Owner: Shores Club Condominium Association a/k/a The Shores Club Management Corporation, Inc.
Parcel ID #: 6302-26-00-0001

In violation of: *Code of Ordinances of the City of Daytona Beach Shores, Appendix "G" – Land Development Code, Chapter 5, Section 5-6. Building Code adopted.*, which refers, in part, to the *Florida Building Code, Chapter 1, Section 105.1. Required.*

· **Pool refinished without a permit**

Ms. Dowling noted that her condominium and this one share the same management team. Ms. Herstein asked that each document provided by the City be accepted into evidence. The Chairwoman accepted the documents into evidence. This case was found in violation by city staff on August 28, 2014. Steve Edmunds was inspecting balcony concrete restoration on the outside and noticed that the pool was drained and being worked on without a permit. He advised the workers and issued a Stop Work Order. On March 4th, the case was reviewed and no permit application had been submitted. A Notice of Violation was sent on March 29th and good service was achieved. Brandon, a maintenance worker for the condominium, called on April 10th. He stated that he would call the pool company who did the work so they could pull the permit. On May 1st nothing had been received so a Statement of Violation/Request for Hearing was sent by certified mail. Good service was achieved. A call came in on May 6th from Larry, who was with the condo to follow up on the permit. Later that afternoon, a permit application was completed. The permit was ready on May 8th. It was picked up on May 19th at 11:45am. Ms. Herstein

questioned Building Inspector Steve Edmunds on the accuracy of the events and documents presented. He responded affirmatively and had nothing to add. Staff reported that the Respondent was compliant and requested that no fine be imposed. Ms. Herstein did request the reimbursement of the Administrative Fees in the amount of \$140.98.

Mr. Bauknect moved, seconded by Mr. Kittinger that based on the testimony given and the evidence presented today regarding Shores Club Condo Association at 3815 S. Atlantic Avenue, Case Number PCDEF2015-29, Parcel Number 6302-26-00-0001, find the Respondent to have been in violation of Land Development Code Chapter 5, Section 5-6 and failed to correct the violation by the time specified for correction by the Code Enforcement Officer and therefore be required to pay an Administrative Fee of \$140.98 and find that said property is now in compliance and any reoccurrence of the same Code by the Respondent within five (5) years will be treated as a Repeat Violation, for which a fine of up to \$500.00 per day may be imposed.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Donald Bauknecht, Eric Datz, Ike Ofer, Larry Kittinger, Larry Saffer, Lowell Wynn, Sally Dowling.

REMARKS OF STAFF

10. The next CEB meeting will take place on Tuesday, June 16, 2015, at 1:00 P.M.

Board Attorney Groot explained that he would not be in attendance for the next meeting, but Attorney Jennifer Nix was available.

REMARKS OF BOARD MEMBERS

Mr. Datz stated he would like to wait for Attorney Groot to return before continuing the cases as he heard the testimony today. The board was in agreement to reschedule the June meeting to a later date. Staff will poll the board and choose a new date.

Attorney Groot mentioned that the city staff presented the cases very well. Ms. Herstein is not bound by the technical rules of evidence. It can be simpler if one person is asking the questions for each side.

ADJOURNMENT : The meeting ended at 3:36 pm.

Attest:

Cheri Schwab, Recording Secretary

Sally Dowling, Board Chairwoman