



Code Compliance Board Minutes

July 30, 2020 at 3:00 pm

City Hall, Commission Chambers
401 S. Park Avenue, Winter Park, Florida

Meeting Called to Order

The meeting was conducted via ZOOM.

Clay Roesch called the regular meeting of the City of Winter Park Code Compliance Board to order at 3:00 p.m.

Present

Board Members: MarySarah Johnson, Maria Bryant, Todd Boyer, Sherwin Sargeant, Terry Rooth, Paul Mandelkern and Clay Roesch. Director of Risk Safety & Fleet Keri Martin, Safety & Code Compliance Officer's Susanne Porras and Smitha Barlatier, City Attorney Richard Geller and Recording Clerk Michelle Bernstein.

Assistant City Attorney's Statement

City Attorney Richard Geller explained that the Governor's executive orders, as extended, authorized the virtual setting for the meeting and that all who received a Notice of Hearing were informed of how to participate, including the ability to make arrangements to use a city computer or to appear by telephone.

Election of Chairman & Vice Chairman

Motion made by Paul Mandelkern to nominate Clay Roesch as Chairman; seconded by Todd Boyer. Motion carried unanimously 7-0.

Motion made by Clay Roesch to nominate Paul Mandelkern as Vice Chairman; seconded by Terry Rooth. Motion carried unanimously 7-0.

Approval of minutes

Paul Mandelkern requested that the motion on the first page, first sentence in the last paragraph be bolded and Maria Bryant requested that the word "clarity" be changed to "clarify" on the second page, fourth paragraph. **Motion made by Paul Mandelkern to accept the January 9, 2020 minutes as corrected (at the bottom of page 1, the last paragraph where it says "Daniel McIntosh made a motion that based on the evidence presented today, the Board issue" the phrase "on the evidence presented today, the Board" would be put in bold as the rest of the motion and on page 2, the paragraph that starts "To clarify the record" it should say "To clarify the record"; seconded by Clay Roesch. Motion carried unanimously 7-0.**

Clay Roesch read the statement of purpose into the minutes.

City Attorney Richard Geller presented a PowerPoint giving a brief overview of the Code Compliance process.

Swearing in of Witnesses

All witnesses were sworn in.

Compliances

CC#19-356 and CC#19-1236

402 Kilshore Lane, Winter Park, FL 32789

Cited for Overgrowth, Unsecured Pool and Stagnant Pool

Officer Barlatier advised the board members that the respondent is substantially in compliance at this time. The respondent took care of the overgrowth and secured the pool by installing the self-closing/self-latching gate. The remaining item is to clean, sanitize or remove the pool. The respondent notified the City that he plans on filling in the pool since he has no use for it. Two out of three violations have been addressed.

New Business

CC#18-870

1260 Whitesell Drive, Winter Park, FL 32789

Violation: Large hole in porch and rear of home apparently due to damage from a fallen tree and damage to the edge of the roof of the main house that is attached to the rear porch. With this area being left open for rain, a deterioration of structural members is occurring and compromising the interior of the home for safe occupancy. Codes Cited: Chapter 22, Section 22-28 (2018 edition), 116 Unsafe Buildings, Chapter 22-176, 22-177, Section 304.7 Roofs and Drainage, 304.2 Protective Treatment, 304.6 Exterior Walls, 108.1.1 Unsafe Structures and 110.1 of the International Property Maintenance Code as amended by The City of Winter Park.

Officer Porras presented the case with photographs, gave its history and provided a brief timeline including:

- The first notice of violation issued on July 12, 2018. Officer Porras met with property owner on multiple occasions to discuss compliance and he informed her that he was trying to obtain financial assistance from FEMA.
- December 3, 2018, property owner informed Officer Porras that an application was submitted to Rebuild Florida Disaster for assistance.
- April 25, 2019, Officer Porras received an email from Mr. Barona, Case Manager of Rebuild Florida Disaster Orange County stating that the property owner was approved for disaster assistance.
- The City continues to receive complaints from adjacent property owners about the integrity of the structure resulting in Officer Porras requesting Tom Lilly, Building Code Analyst for the City of Winter Park to inspect the damaged structure.
- May 8, 2020, Mr. Lilly performed an inspection, issued a Stop Work Notice for Unsafe Structure and directed the property owner to apply for a building permit and repair hole in damaged roof in rear of property.
- May 14, 2020, Mr. Lilly issued Notice of Unsafe Dwelling whereby the property owner was directed to take the necessary action to vacate all occupants of the home immediately upon receipt of the notice, proceed with the demolition of the home or provide a plan for safely restoring the home into a safe condition after obtaining required permits with submission of detailed plans for repair of the home to safe code compliance conditions within 14 days of receipt of the notice.

Officer Porras presented the Notice of Hearing that was sent via certified mail and posted at the property and at City Hall.

Discussion was held amongst Board Members and Code Compliance Staff. It was noted that as of this date, there are no active permits with the City of Winter Park, no plans have been submitted, and the property is in non-compliance.

Building Code Analyst, Tom Lilly presented testimony and addressed questions.

Officer Porras presented to the board the June 26, 2020 letter from the property owner, Mr. Moore, acknowledging the notice of hearing and due to personal medical issues, he is prevented from attending this hearing in person. Upon receipt of Mr. Moore's letter, City personnel tried to contact him on several occasions via telephone and in person to provide alternative resources for him to participate in today's hearing but were unsuccessful since he did not answer the phone or the door. Mr. Moore's letter was submitted into the record.

City Attorney, Richard Geller asked if the property owner, Mr. Moore was on the phone. No response or acknowledgment was received during this hearing.

Director of Safety & Code, Keri Martin advised that on July 28, 2020 she wrote a personal note to Mr. Moore to ensure that he was aware of a telephone option to hear and/or participate in today's hearing and to call our office with any questions. City personnel attempted to hand deliver this letter, but since he did not answer, they ended up leaving the note at his door. To date, the City received no response.

Clay Roesch asked once again if the respondent, Mr. Moore was present on the phone or if anyone was present on behalf of the respondent. No response or acknowledgement was received during this hearing.

The following offered public comment:

Vincent D'Assaro, 1240 Whitesell Drive, Mr. Moore's neighbor for 22 years, participated via telephone. Mr. D'Assaro said it is very difficult to live beside a very unsafe, dilapidated home. He shared frustration that two years have passed since the original violation was issued in 2018, no improvements have been made, no permits have been pulled and the home is falling apart and getting worse. At one point in time, Mr. Moore secured the tarp that was covering the hole in the roof with curtain rods and concrete blocks and eventually the back roof caved in. The roof now has rotten wood exposed, the front roof valley is rapidly deteriorating, there is black mold on the outside of the home and the electrical drop is unsafe. Since rats are frequently seen he had a rodent inspection performed and provided a copy of the May 6, 2020 report to Officer Porras for the record. Over the years he has experienced a great deal of damage to his own home as a result of the lack of maintenance and unkempt conditions of Mr. Moore's house and feels that he should be held liable to remedy this unsafe and dangerous condition. A copy of Mr. D'Assaro's July 28, 2020 email and photos were presented to the board and submitted into the record.

Heather Lyons, 2001 Temple Drive, participated via telephone. Ms. Lyons stated that she moved into her home in 2005 and since then no improvements have been made to date. Her backyard abuts Mr. Moore's backyard so she has a direct view of his deteriorated home and overgrowth. Snakes and rodents are frequently seen coming under the fence that come from Mr. Moore's property and she is constantly having to kill back the weeds and vines that grow from his yard under the fence as well. Her family has never had the pleasure of enjoying their own backyard and over time she even installed a fence and blinds to help obstruct the view of this dilapidated house and neighboring eyesore. A copy of Ms. Lyons July 30, 2020 letter was presented to the board and submitted into the record.

Thomas Dance, 1900 Via Contessa, did not participate via telephone. A copy of Mr. Dance's July 14, 2020 email letter to Officer Porras was presented to the board and submitted into the record. In the letter, he shared his concerns with the wild unchecked growth of vines and vegetation in the back yard of Mr. Moore's property, which fosters rodent infestation and the long-term health of two large trees.

Board closed portion of hearing for discussion. City Attorney, Richard Geller and City Staff responded to board member questions.

Paul Mandelkern made a motion that from the evidence presented today, this board is issuing an order finding the Respondent Lucy W. Moore Estate - C/O Gary Moore owner of 1260 Whitesell Drive, Winter Park, Florida 32789, Code Compliance Board Case # 18-870 in violation of Chapter 22; Sec.22-28 Amendments to the Florida Building Code and Property Maintenance Code (2018 EDITION). Subsection 116 Unsafe Buildings. Chapter 22-176; 22-177; Sec.304.7 Roofs and Drainage; Sec.304.2 Protective Treatment; Sec.304.6 Exterior Walls; Sec.108.1.1 Unsafe Structures and Sec.110.1 Unsafe Buildings or Structures of the International Property Maintenance Code of the City of Winter Park. The Respondent is ordered to take the necessary actions to vacate all occupants from the home located on the property immediately and to proceed with demolition of the home/structure or provide a detailed written plan including engineered drawings for safely restoring the home into a safe condition after obtaining required permits with submission of detailed plans for repair of the home to safe code compliance conditions within 14 days of this hearing date. Failure to comply with this order will result in fines of up to \$250.00 per day, per violation for each day the violation continues. If the Respondent fails to comply with this order the City of Winter Park shall take appropriate action; seconded by Todd Boyer.

Paul Mandelkern amended the motion: The Respondent is ordered to take the necessary actions to vacate all occupants from the home located on the property immediately and to proceed with demolition of the home/structure or provide a detailed written plan for safely restoring the home into a safe condition after obtaining required permits with submission of detailed plans for repair of the home to safe code compliance conditions within 14 days of this hearing date. Failure to comply with this order will result in fines of up to \$250.00 per day, per violation for each day the violation continues. If the Respondent fails to comply with this order the City of Winter Park shall take appropriate action; seconded by Todd Boyer.

Motion carried unanimously 7-0.

CC#19-1411
1400 South Denning Drive, Winter Park, FL 32789

Violation: Repeated noise disturbances causing imminent interference with peace, quiet and comfort of persons residing in neighboring houses. Codes Cited: Chapter 62, Section 62-95, 62-96 (a) & (b), 62-97 (2) & (3) City of Winter Park ordinances.

Officer Barlatier presented the case with photographs, gave its history and provided a brief timeline including:

- The subject property is owned by the City of Winter Park and leased to the Florida Federation Garden Clubs (FFGC).
- December 13, 2019, the City issued a Notice of Violation regarding multiple noise disturbances from January 2019 through March 2020. Staff sent this Notice of Violation and the Notice of Code Compliance Board Hearing for today's meeting to the local office FFGC and Mr. Al Latina, President of FFGC, along with copies of the police reports/event reports.
- March 19, 2020, Office of the City Manager issued a letter to FFGC revoking any right to allow others to rent the facility effective immediately (letter specifically states "Until the City's Code Compliance Board hears the Notice of Violation, and thereafter, the Garden Club shall cease and desist from all further violations of the Winter Park Code and of our Lease Agreement"). Staff emailed a copy of this letter to Mr. Latina on the same day it was issued, along with mailing the original letter.
- July 13, 2020, FFGC held an event, which was in violation of the City Management letter.

Several questions raised by the Board Members included the compliance of the lease, length of the lease, why this item came before the board instead of it being a lease violation that the City should enforce as the landlord and if the lease addresses hours allowed for events. City Attorney Richard Geller referenced the March 19, 2020 letter from the Office of the City Manager listing several violations, noting that the Lease Agreement is for 99 years and is dated December 1, 1959 and since the Code Board is an extension of the City, they are being asked to hear this matter and provide a determination. He also clarified that the lease does not contain any provision for the sub-rental of this property for events such as this, nor any operational hours for events. There is a restriction on assignments, which must have the City's consent and it is the City's position that renting out the property is a subset that falls within the restriction of assignability of their interest in the property. Upon questioning, Officer Barlatier addressed items pertaining to the written police reports and the noise levels.

The following spoke on behalf of the Respondent:

Attorney Justin Munizzi, Munizzi Law Firm representing the Florida Federation Garden Clubs (FFGC) provided background on the establishment of FFGC, their primary purpose and presented testimony. He advised that they have been hosting events at the 1400 S. Denning Drive location for approximately 16 years. Upon receipt of the City Manager's letter dated March 19, 2020, they investigated the matter. In reviewing the 30 complaints that were received within 1.5 year timeframe, only 8 complaints specifically mention the Garden Club. He points this out since Mead Garden also hosts events and is within close proximity.

Mr. Munizzi explained that, in an effort to help mitigate the noise level and comply with the code, a recording decibel meter was purchased to monitor the music levels every half hour for all events and that outdoor volume levels are not to exceed 75 decibels.

Mr. Munizzi mentioned several new procedures they put in place for all future events: No DJ's will be playing outdoors at any time, no outdoor events past 5:00 p.m. and all events end at 10:00 p.m., In addition, FFGC now arranges and pays for an off-duty Winter Park Police Officer to stay and monitor the event to verify compliance with the decibel monitoring, they established a rapid response protocol so that if a complaint is made in the future and one of the vendors or the Police Officer on site is notified, FFGC will be notified to address the issue and they installed a single control point speaker system allowing the person who is responsible for monitoring the event the ability to adjust the sound easily with the turn of a knob. He also clarified the following: the events that are taking place after 5:00 p.m. are going to be indoors and the decibel meter reading will be taken outside to make sure that the noise coming from an inside event (or outside) does not exceed 75 decibels. He also noted that he reviewed all the FFGC's documentation and agreements with their caterers and they do not sublease or assign any interest in the property.

FFGC President, Mr. Al Latina stated on behalf of their 11,000 FFGC members they offer their neighbors a sincere apology for the past disturbances with overly loud and in appropriate music. They have taken appropriate measures to ensure this will not happen again and are confident that the issues in the past will no longer create any disturbances in the neighborhood.

Upon Board Members questioning, Mr. Munizzi and Mr. Latina explained the method they used in achieving the maximum 75 decibels level and they were not aware of doing anything differently over the past 1.5 years to cause the complaints. Mr. Munizzi advised that he submitted a copy of today's presentation to the City for the record.

The following offered public comment:

Mr. Basso, 1215 Nottingham Street, participated via telephone. He shared concerns with hearing the loud music from inside the home nearing the late hours as many families have young children. He advised that the City of Orlando and Orange County's decibel level is 60 for neighborhoods and the City of Orlando's maximum decibel level is 75 for their nightclub entertainment areas. He apologized for entering chat comments during the meeting. The Recording Clerk confirmed the saving of the aforementioned comments into the record.

Amy Herrero, 1407 Nottingham Street, participated via telephone. She advised that her entire backyard borders the Garden Clubs property so they receive direct sound which sometimes can be heard inside their home. They are unable to enjoy their backyard because the loud music is very unpleasant and problematic. She also has young children and sometimes the loud music continues past their bedtime. A copy of Ms. Herrero's letter, photos and videos were presented to the board and submitted into the record.

Mr. Potter, owner of Cocktails Catering, participated via telephone. He explained that they work most of the events for FFGC and was not aware of the noise complaints until they were brought to his attention in January/February. Thereafter FFGC asked him to provide input on a solution to remedy the noise complaints, thereby referring to the new policy items that FFGC attorney spoke of earlier in an effort to comply moving forward. He also explained the method used in determining a decibel level of 85 and FFGC made the decision to lower it to 75 decibels.

Mr. Bardwell, 1431 Nottingham Street, did not participate via telephone. He submitted a letter to Officer Barlatier sharing his concerns with the loud music every weekend and that it can be heard inside their home through double pane windows. They also have young children that go to bed at 8:00 p.m. and they can hear the music in their rooms. A copy of Mr. Bardwell's letter was submitted into the record.

Mr. Jones, 1435 Nottingham Street, did not participate via telephone. He submitted an email dated July 29, 2020 to Officer Barlatier sharing his concerns with the loud music and disruption of their peaceful neighborhood. He expressed his opposition to permitting the continuation of events past the prescribed times and during the week. A copy of Mr. Jones's letter was submitted into the record.

There were no other public comments.

Board closed portion of hearing for discussion. City Attorney Richard Geller and City Staff responded to board member questions.

Paul Mandelkern made a motion that they table this case with the right to reopen the case if there are further complaints; seconded by Terry Rooth.

Further discussion transpired between board members and City Attorney Richard Geller.

Clay Roesch made a motion to amended the original motion: To include a recommendation that the City permit the Garden Club to hold up to 3 events to test the new procedures and policies that they put in place to determine whether or not those are sufficient to resolve the alleged violation; seconded by Terry Rooth. Paul Mandelkern did not accept this amendment to his original motion (since 3 events is an arbitrary number, he would recommend that the City and the Garden Club meet and see if they can reach an agreement as to the ability under the Lease to hold events). Clay Roesch withdrew this motion.

Clay Roesch made a motion to amend the original motion: To recommend that the City and the Garden Club meet to determine whether or not these new policies and procedures could be effective at remedying

the issue brought before the board today. Further board discussion transpired. **Amended motion failed for lack of a second.**

Paul Mandelkern restated his original motion: That they table this case with the right to reopen the case in the event of further violations of the City Code; Following clarification regarding the verbiage of this motion; **Paul Mandelkern withdrew this motion.**

Todd Boyer made a motion that from the evidence presented today, this board is issuing an order finding the Respondent Florida Federation Garden Club (tenant) of 1400 S. Denning Drive, Winter Park, Florida 32789, Code Compliance Board Case # 19-1411 in violation of Chapter 62, Section 62-95, 62-96 (a) & (b), 62-97 (2) & (3) City of Winter Park Ordinances. Repeated noise disturbances causing imminent interference with peace, quiet and comfort of persons residing in neighboring houses. The respondent is ordered to Refrain from disturbing the peace and quiet in the neighborhood within 1 day within this hearing date. Failure to comply with this order will result in fines of up to \$250.00 per day, per violation for each day the violation continues. The Florida Federation Garden Club can hold events with the City Manager's approval; seconded by Maria Bryant. City Attorney, Richard Geller responded to an inquiry regarding procedures for future violations by advising that this case will have to come before the board in a Massy hearing for the imposition of a fine.

Upon a roll call vote on the motion to approve finding the Respondent Florida Federation Garden Club (tenant) of 1400 S. Denning Drive, Winter Park, Florida 32789, Code Compliance Board Case # 19-1411 in violation of Chapter 62, Section 62-95, 62-96 (a) & (b), 62-97 (2) & (3) City of Winter Park Ordinances, Todd Boyer, Maria Bryant, Sherwin Sargeant and Mary Sarah Johnson voted yes. Terry Rooth, Clay Roesch and Paul Mandelkern voted no.

Motion carried with a 4-3 vote.

Old Business

None.

Other Business

None.

Next Meeting Date

September 3, 2020

Adjournment of Meeting: There being no further business, the Code Compliance Board meeting was adjourned at 6:20 pm

Respectfully submitted,

Michelle Bernstein, Recording Secretary

Clay Roesch, Chairman