

DUNEDIN CODE ENFORCEMENT BOARD
REGULAR MEETING OF TUESDAY, MARCH 3, 2020
CITY HALL – 542 MAIN STREET – 2:00 PM

PRESENT: Chair Michael Bowman and Vice-Chair Lowell Suplicki; Members Arlene Graham, William Motley and Dave Pauley; Alternate Member Gordon Chize

ABSENT: Bunny Dutton and Ken Carson

ALSO PRESENT: City Attorney Tom Trask, Secretary to the Board Joan McHale, Code Enforcement Inspector Michelle Gilbert, Pinellas County Sheriff's Deputy Clement and twenty attendees.

Chair Bowman called the meeting to order at 2:00 P. M. and explained the purpose of this Board and meeting procedures to those in attendance.

APPROVAL OF MINUTES

Approval of the Minutes from Regular Meeting of February 4, 2020

MOTION: Mr. Chize moved to approve the minutes of the regular meeting of February 4, 2020. Second was made by Mr. Pauley.

VOTE: Motion carried unanimously.

AFFIDAVITS OF COMPLIANCE

Chair Bowman advised those in attendance that if their case number was called, they did not need to attend the meeting unless they were attending for a request for fine reduction.

1. DCEB 13-401 City vs. KELLY & HANNAH BARNES
2. DCEB 19-379 City vs. CHARLES A & JAN M SCHNEIDER
3. DCEB 19-424 City vs. ANDREA H & CARL S DIVITO
4. DCEB 19-698 City vs. ORA IMOGENE MARTIN TRUST/GARY W LYONS TRE

MOTION: Mr. Motley moved to accept the Affidavits of Compliance. Second was made by Mr. Pauley.

VOTE: Motion carried unanimously.

Ms. McHale swore in Code Enforcement Inspector Michelle Gilbert.

OLD BUSINESS

1. DCEB 19-725 City vs. US BANK NATL ASSN TRE / C/O OCWEN LOAN SERVICING LLC
1351 Ohio Avenue
Violation of the Florida Building Code Section 105.1 BUILDING PERMIT REQUIRED
Violation of the International Property Maintenance Code Section 304.1 MAINTENANCE OF STRUCTURES

Violation of the International Property Maintenance Code Section 304.2 PROTECTIVE TREATMENT

Violation of the International Property Maintenance Code Section 304.7 ROOFS AND DRAINAGE

Violation of the International Property Maintenance Code Section 305.3 INTERIOR SURFACES

Chair Bowman determined the respondent was not present.

Ms. Gilbert reviewed case DCEB 19-725:

- At the meeting of February 4, 2020 this Board ordered compliance by February 10, 2020 or a fine of \$250.00 per day would be imposed.
- As of inspection on February 20, 2020 the violations remain.
- The attorney for the property contacted her today requesting an extension; they are out of Miami. The request was for until May 4, 2020. They are working on getting a roofing contractor and they were not aware of the severity due to the property management company not giving them all the information.
- The case is being brought forward for consideration of an extension date of May 4, 2020.

Mr. Motely inquired whether or not there was construction going on and Ms. Gilbert advised there was not and it has been vacant for quite a while.

Mr. Pauley asked if she would have reason to believe that the work could be in compliance by May 4th.

Ms. Gilbert stated not the entire case, but the main thing is the starting with the roof. She explained this is a house that has been on auction for a long time and it has been vacant she thought since 2018 and it was foreclosed. The property management company obviously does not speak to the owner, this is the first the attorney knew this case was open. She told him the City would work with them because they need to get a roof on the back half of the house.

MOTION: Ms. Graham moved in case DCEB 19-725 to extend the Compliance Date to May 4, 2020. Second was made by Mr. Pauley.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

2. DCEB 19-727 City vs. BASKAL KORKIS & ADIBA KORKIS

405 Locklie Street

Violation of the International Property Maintenance Code Section 304.15 DOORS-EXTERIOR

Violation of the International Property Maintenance Code Section 304.1 MAINTENANCE OF STRUCTURES

Violation of the International Property Maintenance Code Section 304.2 PROTECTIVE TREATMENT

Violation of the International Property Maintenance Code Section 304.7 ROOFS AND DRAINAGE

Violation of the International Property Maintenance Code Section 308 RUBBISH AND GARBAGE

Chair Bowman determined the respondent was not present.

Ms. Gilbert reviewed case DCEB 19-727:

- At the meeting of February 4, 2020 this Board ordered compliance by February 12, 2020 or a fine of \$250.00 per day would be imposed.
- As of inspection on February 21, 2020 the violations remain.
- An Affidavit of Non-Compliance is being submitted for consideration.
- A letter was supposed to be received from a lawyer when the case was first presented; however, nothing has been received with an explanation as to why the corrections had not been made at this time.

MOTION: Mr. Motley moved in case DCEB 19-727 to accept the Affidavit of Non-Compliance. Second was made by Ms. Graham.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

3. DCEB 19-741 City vs. GLENN D & ANNE E SANDERS

1669 San Mateo Drive

Violation of the Florida Building Code Section 105.1 BUILDING PERMIT REQUIRED

Violation of the International Property Maintenance Code Section 303.2 SWIMMING POOL ENCLOSURES

Chair Bowman determined the respondent was not present.

Ms. Gilbert reviewed case DCEB 19-741:

- At the meeting of February 4, 2020 this Board ordered compliance by February 1, 2020 or a fine of \$250.00 per day would be imposed.
- As of inspection on February 12, 2020 the violations remain.
- An Affidavit of Non-Compliance is being submitted for consideration.
- Today the owner was in the office and paid for the permit; however, the contractor has not picked the permit and there will have to be a change order for the gas line. She thought within the next couple of days it would be taken care of.

When Mr. Motley asked if she was requesting an extension, Ms. Gilbert stated maybe a week or possibly, Friday.

Mr. Pauley inquired regarding the violation for the pool enclosure.

Ms. Gilbert explained the contractor took down the fence, there was a pool in the back yard and when he was advised that was a life/safety issue, he removed the pool and left a big hole, which is the same thing as there was no construction fence at the time. She believed there was still no construction fence, hopefully that will be rectified by the time the permit is in hand.

MOTION: Mr. Pauley moved in case DCEB 19-741 to extend the Compliance Date to March 20, 2020. Second was made by Mr. Chize.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

4. DCEB 19-759 City vs. AIMEE HEGH

931 Dumont Drive

Violation of the Florida Building Code Section 105.1 BUILDING PERMIT REQUIRED

Violation of the Florida Building Code Section 115 STOP WORK ORDER

Chair Bowman determined the respondent was not present.

Ms. Gilbert reviewed case DCEB 19-759:

- At the meeting of February 4, 2020 this Board ordered compliance by February 11, 2020 or a fine of \$50.00 per day would be imposed.
- As of inspection on February 20, 2020 and checking for permits, the violations remain.
- An Affidavit of Non-Compliance is being submitted for consideration.

MOTION: Ms. Graham moved in case DCEB 19-759 to accept the Affidavit of Non-Compliance. Second was made by Mr. Motley.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

NEW BUSINESS

1. **DCEB 19-670 City vs. ROBERT RESS**
998 Douglas Avenue
Violation of the Land Development Code Section 107-31.2 TEMPORARY STORAGE STRUCTURES

Chair Bowman determined the respondent was not present.

Ms. Gilbert reviewed case DCEB 19-670:

- The violation exists on a commercial property that is currently occupied by the tenant.
- Ownership was confirmed by the County Tax Rolls and Pinellas County Property Appraisers' Office.
- The property was inspected on August 30, 2019 and a notice of violation was sent to the owner with a requested compliance date of October 11, 2019.
- The violation includes, but is not limited to the two shipping containers at Café Racer by the Pinellas Trail.
- This case has been going back and forth with the contractor of record. There was a list of items to be addressed and the contractor recently provided a request for an extension; he addressed the last item yesterday and is requesting two weeks to have the last request reviewed and be able to pick up the permit.

Ms. Gilbert submitted into evidence photographs taken on September 23, 2019 and August 12, 2019. She recommends a compliance date in two weeks and a fine of \$250.00 per day thereafter for non-compliance.

Mr. Pauley asked what has to be done. Ms. Gilbert explained the last thing they had to do was have the architect and engineer of record to address the use, this was the last of 8 items to be addressed.

Mr. Pauley asked if these were ever permitted and Ms. Gilbert advised they were not.

Vice-Chair Suplicki verified with Ms. Gilbert the City had no objection to extending the compliance date and noted the containers are not being removed which is the reason for the permit; they have to go through the proper channels to keep them there.

- MOTION:** Vice-Chair Suplicki moved to find case DCEB 19-670 based on testimony, evidence and facts presented in violation of the Land Development Code Section 107-31.2 and that the Respondent shall come into compliance by March 20, 2020 or suffer a fine of \$50.00 per day. Second was made by Mr. Pauley.
- VOTE:** Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

Chair Bowman reviewed the Finding and Order of the Board.

2. **DCEB 19-780 City vs. MACK HOME SOLUTIONS LLC**
668 Dexter Drive
Violation of the Florida Building Code Section 105.1 BUILDING PERMIT REQUIRED
Violation of the Florida Building Code Section 115 STOP WORK ORDER

Chair Bowman determined the respondent was not present.

Ms. Gilbert reviewed case DCEB 19-780:

- The violations exist on a single family residential property that is currently vacant.
- Ownership was confirmed by the County Tax Rolls and Pinellas County Property Appraisers' Office.
- The property was inspected on November 19, 2019 and a notice of violation was sent to the owner with a requested compliance date of December 22, 2019.
- The violations include a permit required for the interior alteration and renovation to include, but not limited to demolition, new drywall, electrical and plumbing; new windows; new air conditioning and so forth and the stop work order was posted due to the interior alteration and renovation in progress without a permit.
- There has been no contact to date for this case.

Ms. Gilbert submitted into evidence photographs taken on November 19, 2019 and January 22, 2020. She recommends a compliance date of March 12, 2020 or a fine of \$250.00 per day thereafter for non-compliance.

Mr. Motley inquired if there were any safety issues on the property. Ms. Gilbert stated nothing outside.

- MOTION:** Mr. Motley moved to find in case DCEB 19-780 based on testimony, evidence and facts presented in law and that at the time of the alleged violations, the Florida Building Code Section 105.1 and Section 115 were in full force and effect and the Respondent is found in violation thereof and that the Respondent shall come into compliance by March 20, 2020 or suffer a fine of \$250.00 per day. Second was made by Mr. Chize.
- VOTE:** Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

Chair Bowman reviewed the Finding and Order of the Board.

Ms. Gilbert read the list of the following cases to be removed from the agenda.

3. **DCEB 19-802 City vs. BRUCE ROSENBAUM/PATRICK & ANITA FLAMMIA/JAMIE HYATT**
1043 Oak Street
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITION

REMOVED FROM AGENDA

4. **DCEB 20-006 City vs. ANNE RENNIE WAVERLY**
448 Chicago Avenue
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITION
REMOVED FROM AGENDA
5. **DCEB 20-007 City vs. SASA BRATIC / SINISA BRATIC**
372 Colonial Court
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITED
REMOVED FROM AGENDA
6. **DCEB 20-022 City vs. WAVERLY RENNIE**
414 3rd Avenue
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITED
REMOVED FROM AGENDA
7. **DCEB 20-023 City vs. WAVERLY RENNIE**
1242 Bass Boulevard
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITED
REMOVED FROM AGENDA
8. **DCEB 20-024 City vs. WAVERLY RENNIE**
1240 ½ Bass Boulevard A
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITED
REMOVED FROM AGENDA

Mr. Motley clarified with Ms. Gilbert all the above cases have come into compliance.

9. **DCEB 20-025 City vs. ROBYN JENNIFER BOONE**
1231 Bass Boulevard
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITION

Ms. McHale swore in Robyn Boone

Ms. Gilbert reviewed case DCEB 20-025:

- The violation exists on a single family residential property that is currently vacant and not homestead.
- Ownership was confirmed by the County Tax Rolls and Pinellas County Property Appraisers' Office.
- The property was inspected by Host Compliance on January 8, 2020 and a notice of violation was sent to the owner with a requested compliance date of February 7, 2020.
- The violation includes that in a Multi-Family district a Bed & Breakfast Inn is permitted as a transient use and only after a Conditional Use Permit is granted by the Board of Adjustment and Appeal. Unless granted the Conditional Use Permit by the BAA to operate a Bed & Breakfast Inn as described the owner must stop renting or leasing this property for less than 90 days or 3 calendar months whichever is greater.

Ms. Gilbert submitted into evidence the online advertising from VRBO and Home Away on February 17, 2020. The listing clearly shows it is for 6 to 90 nights and it has not changed to reflect the 90 night

minimum. She recommends a compliance date of March 12, 2020 or a fine of \$250.00 per day thereafter for non-compliance.

Ms. Boone stated:

- She did not receive the notice until February 15 because she has been in and out of town looking after her mother.
- On February 15, when she received the notice she promptly cancelled everything except March.
- She bought the property initially to live in it which she did; she had it just over a year and had it rented for 6 months.
- Her plan is to go to something longer term and she is requesting an extension to April 4, 2020.
- Everything has been changed on the VRBO to 90 days, so she did not know if she had to take it all down or the 90 days minimum is acceptable.

Ms. Gilbert advised she checked the listing on February 29 and it still shows a minimum night stay of 6 nights. She noted with VRBO and Home Away they are very difficult sometimes for changing things and people have to be persistent and get someone live on the telephone. She advised it also just printed.

Ms. Boone stated she had April and May booked and she cancelled everything on February 15th.

Vice-Chair Suplicki clarified Ms. Boone was just asking to run this month until April 4th.

When Chair Bowman asked if there were any objections by the City, Ms. Gilbert stated she did not; however, she did want the listing and advertising to show what the ordinance reads.

Ms. Boone stated she already changed the listing to 90 days and she will follow up.

Ms. Gilbert suggested Ms. Boone send her a screen shot for the change and then she will check the City system again.

MOTION: Vice-Chair Suplicki moved to find in case DCEB 20-025 based on testimony, evidence and facts presented and that at the time of the alleged violation the Land Development Code Section 103-14.4 was in full force and effect and the Respondent is found in violation thereof and that the Respondent shall come into compliance by April 6, 2020 or suffer a fine of \$50.00 per day. Second was made by Mr. Motley.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

Chair Bowman reviewed the Finding and Order of the Board.

10. **DCEB 20-027 City vs. EDDIE A TYSON / JAMES B TYSON / ESTELLE TYSON**
501 Milwaukee Avenue
Violation of the Land Development Code Section 103-14.4 TRANSIENT USE PROHIBITED

Ms. McHale swore in Eddie Tyson.

Ms. Gilbert reviewed case DCEB 20-027:

- The violation exists on a single family residential property that is currently occupied by the owner on one side and the other side is a rental.

- Ownership was confirmed by the County Tax Rolls and Pinellas County Property Appraisers' Office.
- The property was inspected by Host Compliance on January 8, 2020 and a notice of violation was sent to the owner with a requested compliance date of February 7, 2020.
- The violation includes that in a Multi-Family district only a Bed & Breakfast Inn is permitted as a transient use and only after a Conditional Use Permit is granted by the Board of Adjustment and Appeal. Unless the owner plans to operate an owner occupied Bed & Breakfast as described then the owner must stop renting or leasing this property for less than 90 days or 3 calendar months whichever is greater.

Ms. Gilbert submitted into evidence the online advertising VRBO showing the 30 night minimum; the Airbnb is inactive now, but was showing a 7 night minimum; there was a second Airbnb that was inactive, but had a 7 night minimum and a Home Away now inactive showing a 7 night minimum and that was as of February 29, 2020 showed an active listing with a 30 night minimum stay. She recommends a compliance date of March 12, 2020 or a fine of \$250.00 per day thereafter for non-compliance.

Mr. Tyson stated:

- He did advertise on VRBO and Home Away which is the worst program as there is no correspondence with them and you have to get them on the phone to deal with them.
- He does have a 3-month lease on the property drawn up by Ken Clostra who was recently left and was with Littlejohn Realty; it was written last year for clients he brought to him who had been residing in his 501 Milwaukee property and they will be out April 1st.
- He rents one side of his duplex three months a year to pay his \$6,000 taxes and his \$6,000 insurance. After April it stays empty, his family comes over from Orlando and California and use the property and he has friends who use it.
- He does not intend to rent the property except for January, February and March of each year of which VRBO has already rented it for him and paid in full for next year at \$4,400.00 a month.
- He is proud of Dunedin and his property and he spends money to live in Dunedin and to keep his property presentable. He has a permit for a privacy fence to be installed tomorrow.

Chair Bowman verified with Mr. Tyson the people renting this year and next year are the same people and they are there for the full 90 days.

Ms. Gilbert stated that was fine for this year and next year and it is up to the Board regarding next year; she would not have a problem with that, but after that it has to either get approval from the BAA or it has to be changed to reflect the 90 night minimum in the system, because right now it shows 30 days.

Mr. Tyson stated he would change the advertisement today to 90 days minimum.

Mr. Tyson noted that Craig's List has numerous rentals available for the Dunedin area and all you have to do is inquire if you can use it for a month; he did that Saturday night and he was told they were available and he was welcomed to come and that was within walking distance of his property.

Vice-Chair Suplicki clarified with Ms. Gilbert if Mr. Tyson has one entity in the property next year it must be for 90 days.

Ms. Gilbert explained if the listing is changed to the 90 days, it will already be in compliance and going forward it has to be the same person for that duration.

Vice-Chair Suplicki verified the Board did not have to address next year assuming the listing is changed and if not then he will be cited again.

Mr. Motley asked whether or not the area is zoned for Bed & Breakfast or 90 days and is the Business Tax Receipt for that being paid.

Ms. Gilbert explained that area is for 90 nights only and there will be coming a program for a vacation rental business tax receipt in the future.

MOTION: Vice-Chair Suplicki moved to find case DCEB 20-027 based on testimony, evidence and facts presented and that at the time of the alleged violation the Land Development Code Section 103-14.4 was in full force and effect and the Respondent is found in violation thereof and that the Respondents shall come into compliance by April 2, 2020 or suffer a fine of \$50.00 per day. Second was made by Ms. Graham.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

Chair Bowman reviewed the Finding and Order of the Board.

11. DCEB 20-033 City vs. LAUREL OAKS AT COUNTRY WOOD CONDO ASSOCIATION
2660-2670 Sequoia Terrace
Violation of the International Property Maintenance Code Section 309 PEST ELIMINATION

Attorney Adam Gurley C/O Robin Parker Gurley of 28059 U.S. Hwy 19 N, Ste 301, Clearwater 33761 – Legal Counsel representing Laurel Oaks was present.

Ms. Gilbert reviewed case DCEB 20-033:

- The violation exists on a residential property that is currently occupied by multiple owners.
- Ownership was confirmed by the County Tax Rolls and Pinellas County Property Appraisers' Office.
- There was meeting with Planning and Development Director Rice, Assistant Director DiPasqua and herself on January 13, 2020 and observed the violation and a notice of violation was sent to the owner with a requested compliance date of January 31, 2020.
- The violation includes the building and structures infested with pests, including but not limited to rats and squirrels. Pest elimination is required as set forth in the violation description to take immediate action to eliminate any pests in the building or structure, take immediate action to prevent any pest re-infestation. Pest exclusion is required to prevent re-infestation of this building or structure; pest exclusion is a preventative tactic that involves sealing areas of the building where pests are likely to enter thereby denying pests access to the building. Once the pest exclusion is complete, any remaining pests should be trapped and removed from the building. Supporting documentation and/or proof of this work shall be provided to the City.

Ms. Gilbert submitted into evidence photographs taken on December 11 and 20, 2019; January 8, 27 and 28, 2020; February 6, 2020 and the attorney letters and invoices from January 29, 2020. She recommends a compliance date of March 13, 2020 or a fine of \$250.00 per day thereafter for non-compliance.

Attorney Adam Gurley stated:

- He would suggest there is hardly an infestation, if an occasional isolated incident at best.

- He had some photographs if the Board wished to see them.
- In terms of background the Laurel Oaks community is a condo community comprised of 20 buildings. It is a community with a large number of Oak trees serving as canopies over the individual 20 buildings. With the number of Oak trees and the foliage, like anywhere else in Florida there are squirrels in the trees. Of note is of those 20 buildings they have two owners in two separate buildings complaining of an “infestation” and miraculously none of the other 18 buildings are dealing with a similar infestation, that is a point first and foremost.
- This came before the Board in July and August 2019. At that point in time the Board was very perplexed as to what these two individual owners were complaining of; nonetheless, they hired a contractor to investigate any issues of possible areas of intrusion in those two buildings to fix some of the woodwork and also to put out traps indoors and outdoors and treat for pests. At that point in time despite multiple traps around the building and multiple traps inside the building including the complainant’s unit, there was not only no indication of rodents in the unit whatsoever, nothing was in the traps. Documentation to that effect was provided to Ms. Gilbert as well as the Board and at that time, he recalled it was August this Board concluded the Association had been in compliance; although he would suggest there was insufficient evidence there was ever an issue, but nonetheless the Board took appropriate action.
- After the Association was found in compliance they remained in communication with Ms. Gilbert, with Code Enforcement and on August 5, 2019 the Association’s pest control company, Dr. J’s Pest Control Company visited the property and again confirmed no signs of a pest or rodent issue, nothing in the traps and that update was sent to Code Enforcement.
- There has been a continuation of having Dr. J’s Pest Control among a number of other pest control companies going out to the property during that period of time. The time period relevant to today’s hearing is the beginning of January. He asked to be pardoned for the painstaking detail; however, he thought it important:
 - Starting in January they had Dr. J’s Pest Control out who works with the University of Florida and their pest control and rodent department dealing with issues in the state of Florida and works with them on procedures to remediate if in fact there is an infestation.
 - January 9, Dr. J’s Pest Control came to the property to do the inspection and there were no signs, nothing in the traps; January 15 the same, January 16 the same, January 21 the same, January 24 the same.
 - January 29, Dr. J’s came out in response to the letter from Code Enforcement immediately and inspected the building in question and the area, there was nothing in the traps and no signs of rodent droppings.
 - The only issue he did see was an email with a photo attached that was alleged to depict rodent droppings of some kind. Dr. J’s came back very quickly and said those were not rodent droppings; those are debris associated with cock roaches. That documentation was submitted to Ms. Gilbert after receiving the violation letter to confirm.
 - Dr. J’s came out on February 4.
 - On February 6 a company, True Tech another pest control rodent company came out so they were not relying solely on Dr. J’s and they looked at these alleged droppings as well to confirm roach debris.
 - On February 12, 13, 17, 21 and as recently as February 28 a pest control company has been to these particular buildings and to the Laurel Oaks community and confirmed nothing in the traps in the interior of the building and nothing in the traps on the exterior and no signs they can tell.

Attorney Gurley stated he was at a loss as to the evidence of an isolated incident, let alone an infestation, which is a fairly drastic conclusion. He advised:

- Since the last time they were before this Board, this past summer the Association has tried to resolve this on behalf of their owners as they have an interest in making sure their owners are happy in the community. In the single building in question where the complainant lived they have no less than a dozen exterior rodent traps on the outside of the building, by the way the owner complained about those. There are also traps inside the unit including in the complainant's attic where there has been no evidence of anything in those traps.
- On the day of the alleged rodent droppings the Board President, John Walsh called the pest control company and they came out that same day to inspect. The Board is doing everything they can to appease the complainant despite, frankly a history of time showing there is no real issue to respond to. In his view the Board is going above and beyond to have someone come out the same day.
- They have also taken the extra step to not only fix what he would call weakened wood to make sure there are no areas of intrusion, they have taken the extra step of instead of just the insulation padding around the A/C ducts go into the building, they have added concrete on top of that foam just to make sure no rats or squirrels are getting in that way. They have also added wood to areas and blocked off areas like the building vents on the top of the building to make sure there is no intrusion there.
- In addition to Dr. J's Pest Control, they have had Orkin come out, Super D Pest Control and True Tech which he believes is the contractor that restores the wood and some of the concrete. There are four different companies that have come out and all confirmed there is nothing else that can be done and they will keep the traps in place and whenever there is an isolated incident they will address that, but what can they do other than the traps and close the points of entry.

Attorney Gurley stated:

- He has seen only the one photograph for the rodent droppings and he is not sure what the other photos depict of this alleged infestation, but again it is hardly an infestation.
- The Board has done everything they can; the experts have told them there is nothing more they can do, but they will continue to come out and visit as necessary and the same day when there is a complaint.
- The Board is perplexed as to why this is continuing. He would ask that the City and Ms. Gilbert advise if there have been other complaints other than this one single owner because to his knowledge it has been the one or two owners that have complained since day one, but the other 18 buildings are not dealing with the same issue.
- He would suggest to this Board based on the Association dealings with the complainants, on one occasion they showed up to inspect the unit with one of their pest control experts and before the owner opened the door to the unit, she ran to the side of the door and said "I don't even want to open the door because squirrels are going to come rushing out". He would suggest to the Board there is a fear and phobia here of squirrels and rats and they probably hear some squirrels running on a metal roof on top of the unit or something to that effect. There is a complainant who has a fear of these rodents and pests that simply are not in the building as confirmed by a pest control expert.
- They are perplexed to have to be here again to go through this and ask that the Board dismiss any complaint based on what he has shared and all the steps taken for six months to address this. He asked that the Board not extend another invitation for them to come here unless there are additional owners in the community making these complaints, whether there are actual photographs of these pests in the traps or some other issue to show there is an isolated incident, let alone an infestation going on; he thinks the word infestation in this context is a little ludicrous.
- He asked that the Board accept everything the Board of the Association has done to this point and put an end to their having to appear. They have spent thousands of dollars on contractors, pest control companies and now legal counsel. They ask that the issue be resolved and that the City have more evidence of an actual infestation before the Association has to come back and pay their attorneys and so forth.

Mr. Chize asked for clarification whether or not this is the same unit that was here this past summer and Attorney Gurley advised that was correct.

Attorney Gurley provided a photograph of the building and Chair Bowman advised the Board would have to keep the photo for evidence.

Ms. Gilbert advised:

- To be clear the previous case that was before the Board was for pest/rat control and it was Mr. Colbert's case. She noted that does not negate the fact there was a squirrel in the toilet of in one of the units and there were multiple rats in traps.
- The only evidence submitted to her were two invoices from Dr. J's, one was on the 9th and right on it, it says there was a dead rat and they had replaced the trap; however, there was just testimony no rats were found.
- There is obviously an issue. It asks for the building to be excluded so it would not happen again. That is all the owners want, to have it taken care of. What does this one say here, they have closed above the second window outside there was an opening in the soffit, there were holes in the attic of the garage that need to be fixed, three to four days to do; treat the entire exterior and common areas and general pest control which should be done on a normal basis like any other. Then another service call on the 16th, filled several holes; however, many several is; second floor fascia; that is what she is hearing, the rodents running around in her second floor attic space; filled the total of 7 holes with wire mesh and foam. This was the last she received and nothing else past that and nothing from the other companies other than the email from the President of the HOA saying they are working together with all these people to get it done and that was the last.
- When they asked for an extension and the Director did not provide the extension that is when the letter from the attorney was received.

Ms. McHale swore in Barbara Moscato of 2666 Sequoia Terrace, Palm Harbor 34683, Resident of the Condo Association.

Ms. Moscato provided photographs and Chair Bowman advised if submitted the City would have to keep. City Attorney Trask asked that the second set of photographs be provided to Attorney Gurley.

Ms. Moscato stated:

- The Board might recall hearing from her on July 2, 2019 at which time she and one of her neighbors, Jodie Ball presented a compelling story of how they are living with rodents running throughout their building. Also, they might recall the photograph she showed of the squirrel in Ms. Ball's toilet.
- That situation was never resolved and never ended; they wrote and wrote back and forth to Tom Colbert and fell into a big black hole. As a matter of fact the attorney at that time, Monique Parker wrote a supplement and sent it which said: *The Association has responded to each and every complaint received. Please note that we are not receiving complaints from any other owners.*
- She questioned what other owners and if one person's life does not matter, her life.
- There was another letter sent from Attorney Bennet Raben in which he is saying they will continue to act diligently and that they would respectfully ask greater weight be given to the objective evidence being provided by the Association as compared to the unsubstantiated complaints being received from the owner. "There are 119 units in this condominium. No one else is complaining about a rodent infestation." She stated that is not true as she has provided a spread sheet indicating there were 6 other residents with 8 dead rats removed from their homes.

- She is once again being portrayed as a disgruntled resident who is making false accusations against Laurel Oaks. She will prove today these are false allegations and she has provided Ms. Gilbert with substantial evidence to prove that the residents of Laurel Oaks are living under dangerous and unhealthy conditions riddled with rodents. She does not have a problem with being called disgruntled, but she asked that the Board please listen to what she has had to live with not only since July, but since December 9th.
- She does not know John Walsh, the President of the Association on a personal level, but what she has experienced dating back to 2019 when this first began is he is a man who lacks honesty, integrity and has shown no remorse for the residents of the community which he is supposed to lead.
- She would prove today that she is not the only resident being forced to live with rodents, that of the entire Board only a select few have been privy to the information and that the attorney has not been given an honest and truthful account. She did not know if this was pure incompetence or if she is being retaliated against for coming before this Board in July.
- She is not asking for rocket science or a cure for cancer, but that both she and other residents be free of living with rodents in their attics and living space. She is asking this Board to protect the residents of Dunedin.
- She submitted an abundance of correspondence, but she would like to read her favorite:
 - This was an email from John Walsh to David one of the new Board members:
 - By the way here is the definition of infestation and he went on to say what it was and then he said, the same thing happened 9 months ago and the inspector admitted he found nothing. We can chase our tails over one person, they are hearing noises.
- She referred to the spread sheet provided with the following information:
 - January 19 – 20 – one dead rat, two dead rats, three dead rats, four dead rats, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and on to twenty-two dead rats removed from 19 people's homes in Laurel Oaks and 2 squirrels.
- The attorney can call her what he wants; unfortunately she has the proof. She has every invoice from Dr. J's Pest Control and Ms. Gilbert is aware of it and she made the spread sheet for this Board.

Mr. Motley clarified with Ms. Moscato that the invoice from Dr. J's and the information on the spread sheet of what was done and the 19 different residents she requested from the property management company and she drove there to get every invoice.

Ms. Moscato stated:

- She brought the situation to the Board on December 9, her first rat was caught and removed on December 11; it is now March 3rd and she has been forced to live under these conditions for 85 days. It is not resolved; she continues to hear the rodents in her ceiling in her bedroom every morning. It is mind boggling that the Association still has not resolved her issue and has not complied with the directive of Code Enforcement.
- If you read through the documents provided the conditions can be seen. A pest control vendor who inspects and attempts to eradicate a rodent from the top of his ladder, this gentleman does not get off the ladder, he stands there with a flashlight and says "I don't see rodent activity, I don't see any droppings, I don't see any urine." As a matter of fact John Walsh has actually been there while Dr. J's was there and never once said to get off the ladder and inspect the attic, go from the top to bottom, side to side and let him know if there is something in the firewall, or an opening to the front or back. Her word does not have to be taken for that; she submitted in the packet and to Ms. Gilbert at least 6 other people, witnesses who have been there and watched him do it, other residents and a Board member who was there and watched as Dr. J does not get off his ladder.

- She had her own inspection last year and this service came in and walked the entire attic and found leaves and acorns. He came into her living space and checked behind the refrigerator, the stove, the washer and dryer and under every sink; that is what she calls an inspection. If her neighbor has a whole behind their washer, that is where they are getting in and crawling into the attic area and then going from one unit to the next.
- She asked John Walsh to have this new company, True Tech come to her attic and perform a thorough inspection which he told her would be done and that was on February 6th; that was done on February 21st. He did get off the ladder, but did not do an investigation of the entire attic; what he did say in front of John Walsh was that these traps are all placed in the same area, always within 1 to 2 feet of each other and they need to be spread out throughout the attic. If this president did not want her to live with rats and wanted this resolved, right then why did he not tell the person to place the traps where they would catch the rodents.
- She tried to hire her own independent pest control company and it was stopped on February 13, the company came out and inspected the lower attic, because now the rodents are in both, the lower and upper ceiling. He inspected the first floor ceiling and said everything was sealed and fine, but John Walsh saw the van in front of her house and came running down the block and asked what he was doing there and when told he asked him to leave and he could not inspect as it was common element. She noted first of all it is Limited Common Element and secondly if she has to resolve this on her own and not live with rats, why is he allowed to stop her and why would he want to; wouldn't he want her to get rid of what is going on in her building. The attorney said one or two rats were caught in her building, but there were 6 rats and the last one was on the 24th and she has evidence to prove that.
- As far as an exclusion, she submitted some photos in the packet and she showed a photo of her air conditioning vent that goes from the air conditioner to the outside into the wall of the building. Last Friday John Walsh came to her property and got very upset and very loud and started demanding that she fix that and she told him that was not hers, she did not own it and she can't put foam and netting there or mesh or new vinyl siding; she did not own his property. Instead of telling her that, if he wanted to remedy her situation why wasn't it done. The second photo is of vinyl siding on her property that shows an opening wide enough for a rodent to get in which to this day has not been touched. The last photo is a cover of someone's dryer vent, last Friday John Walsh came to her home and demanded that she fix this dryer vent and when she tried to explain to him this dryer vent was not hers, it was on the unit next door, the lower level, the cover fell off and his answer was he was going to show this to the City of Dunedin because this is not being taken care of. This is large enough for a cat and it has been like this since the photo she submitted to Ms. Gilbert on January 24th, why wasn't this taken care of. He then demanded that she go and talk to her neighbor, that is not who she is, she is not on the Board, this should have been taken care of by the Association not her.
- She has also submitted pictures of the trees, they live in Laurel Oaks, but why are the trees within 4 feet of cats, rats and squirrels jumping done and being able to get into their attics.
- Also, on December 18th John Walsh wrote to the Board saying that he and another member Rick Warner would doing an overall review of what we have, what we need and what vendors would work best. He said they spoke to several and they would let them know. She could be called disgruntled because she truly cannot understand why this dates back to December 10th and the only new vendor she has seen is True Tech Wildlife who has never gone into the units. She believed one of you (a member of the Code Enforcement Board) in July was a contractor and directed the Association to do an inspection not only of the upper units, but every unit in the building and that was never done.
- On December 18th, John Walsh wrote to a Board member advising she could meet two new vendors for proposal, but that he and Rick talked to three and they would likely go with one of them finalizing this week. Again, you could call her disgruntled, but this did not happen, that was never finalized and that was December 18th.

- She has provided the dynamics of the building and she is the only one coming forward because she is the only one that hears this. Her neighbor next door with the townhouse has given her permission to tell the Board she sleeps with a CPAP for sleep apnea and cannot hear the rodents. The other neighbor upstairs, Jodie Ball is a flight attendant and is lucky to be there two nights out of the month. The other neighbor next door was Sandy who came forward in July, she could not take it anymore and after 33 years she moved out, it is a vacant unit and does not even have traps. So, she is the only one in that building that hears anything. She is the only one keeping journals of the work and the lack of work being done to eradicate it.
- The Association can single her out and call her disgruntled because she is the only one complaining, but she has shown there were 22 dead rats and 2 dead squirrels and he says she does not have an infestation.
- She is the only one complaining, but she will never be treated and pushed around; she is not going to stop because her life matters and she hopes that it matters to this Board. The last time she was here in July, she believed it this gentleman (she pointed to a member of the Board) that had suggested the fine be increased from \$250.00 to \$500.00, but the \$250.00 was asked; she is asking for \$1,000 or \$5,000 and for the Board to let her live without rats.
- Also, they now have termites in their attic and they have never been notified in writing.
- She has spoken to 6 of the other 19 residents and four are going to come forward with their own complaints. She has not gone to the others, but she will. That is 4 more buildings that will be coming forward and one person, the President of the Board is going to bankrupt the residents of Laurel Oaks.

Vice-Chair Suplicki noted the way this works is Code Enforcement receives complaints and they respond regardless of the violation and as long as they continue to receive complaints whether from one resident or ten, it is still going to be investigated and still eventually make its way to this Board. He thought it would be better directed to the attorney who was present that this does not seem that it is going to go away and if he would like to come forward they could debate the terminology and what is infestation and what is not and so forth, but from the City's perspective how this process works is Ms. Gilbert gets a call and whether it is from one person or ten it is going to keep coming back to this Board. He would say it seems there is still an issue and this Board deals with lots of issues, but this seems like an issue that is ongoing and it does not seem to be getting resolved; although it does seem they have had people out to try to fix it. He asked what they are going to do to stop this from happening, because the City is being asked to stop this, but really if there are continued complaints and he would defer to City Attorney Trask on this, but it is going to be a circle that keeps coming back to the this Board. He asked what is going to be done so this stops.

Attorney Gurley stated:

- On their part they will continue what they have done for the past five months. When they get a complaint the pest control companies will go out and not just the same, but the five he read off to check any areas of intrusion.
- The second point he thinks important is what was demonstrated with the photographs and there was reference to a squirrel in a toilet; that is why they were here over the summer, those are all incidents that happened over a year ago.
- The issue he has is with their being here and any suggestion they would continue to appear here comes from the investigation standpoint. He would like to see the investigation include discussion with other residents in the unit; they cannot buy that nobody else hears it and of the other 20 buildings that someone other than Ms. Moscato, that there is a conversation with the Association's experts who come out and actually inspect.
- Their Board will not profess to be pest control experts, but rely on the people they hire to tell them what to do. He would ask that Code Enforcement have a discussion with the experts as to what they saw

and what else can be done, if anything. If the experts have done everything they can do, then he would ask that this not be referred to the Board because there is no solution; the Board can fine, but there is no solution.

- He would suggest to this point, at least the Board's feeling that is where this is falling apart and has come to him thinking they might need his involvement to deal with what they believe is the investigation of this which is the breakdown.

Mr. Motley commented this complainant has shown this Board the open areas of the building that are still there and that is why the rats are getting in. He asked why that cannot be constructed and taken care of.

Attorney Gurley stated a number of the areas have been and the area that was shown, the dryer vents, that is not something the Association can block off; the owners can decide to put mesh there, but that serves an individual owner's unit and the Association cannot block a dryer vent that could cause a fire; they would be in big trouble. If the owners of that building have an issue and want to submit an application to the Association indicating their solution that they are going to put up mesh or whatever on their individual dryer line, that would be approved provided it is according to Code and any other requirements and is not a safety issue. The gaps in the building which they are not disputing go back to June were there and those were addressed, all the Association can address and are the Association's responsibility have been addressed and then some.

Mr. Motley noted the packet provided by Ms. Moscato showed open areas on the building still exist. Attorney Gurley commented he only saw a dryer vent.

Vice-Chair Suplicki stated the Board only wants to see this resolved and he is sure the Association does as well, but it seems more of an issue when they talk about the investigation meaning the Association and not just one homeowner, whatever homeowners have an issue. Even if the Board dismissed this today, it does not mean that next week or next month the respondent who came up and spoke or anyone else from there cannot make a complaint and it will be back here again. He stated if there are 20 buildings, it could be localized to 1 where there is an issue because the building is having issues different from the rest. The fact of there being 20 buildings and only one having problems is good news. It can be localized and it seems that is good for the Association where they can hopefully to whatever is necessary to protect the envelope of that building and stop this from happening. Once the rodents can't get in, they can't get in.

Attorney Gurley stated that is what they would like, so the hole, if there is a hole still on the building, he thought the solution comes to before everyone getting here and if this picture is provided to them and to Code Enforcement and there is a discussion between the two or three parties that there is still another hole to be addressed they will get the companies they have had out there multiple times and explain they missed one and to address it. He thinks that is the breakdown and there is no reason for it to get this far because they have shown unwavering willingness to address whatever is brought to their attention and that will continue to be the case.

Mr. Motley noted the complainant is still showing this Board photographs, recent photographs of rodents caught in traps and openings in the building. It is still in violation, the rats are getting in.

Attorney Gurley respectfully reiterated there have been five experts come out and say they have addressed all the holes in the building and put traps in and done everything they can and if there is a new hole brought to their attention, then they tell them one was missed and to address it. His question to the Board then would be what else can they do.

Mr. Motley stated the inspector has been there and verified that the rodents are still there and still exist.

Ms. Gilbert stated she and Director DiPasqua were specific in telling them what they need to do. She has two invoices from one pest control person, that is it for this case. Whether it is one rat, one squirrel, whatever the case may be, they should not be getting into the building. Exclusion means from top where the roof is to the bottom of the ground, every single unit, regardless if they been concerned having anything in their unit; they have to look at every single unit because how do they know, maybe one of those units might have an opening somewhere. The pictures she received today make it clear there are a couple of access points right there. Once the exclusion is complete and there is no way to get back in they will go away and not come back; but they have to inspect the whole building, check everything; that is all the complainant is asking.

Chair Bowman allowed Ms. Moscato to come forward since the Attorney was allowed to speak again.

Ms. Moscato commented:

- She meant no disrespect to this attorney; however, he does not even know about all those other invoices and all those other buildings; he is not being told the truth. He said they have had a series of experts; she has given evidence from people who have stood with her and watched the expert never get off the top of the ladder and walk her attic space, never get off the ladder and walk Jodie Ball's attic space, or the other attic space. She suggested this attorney would want to give her permission to have her own inspection done.
- Regarding the dryer vent, they already know the dryer vent is not Association property, but why wasn't a letter sent, why since January 24th until now is that hole big enough for raccoons and rats and everything else; why wasn't a letter sent; that is part of the exclusion and they did not complete the exclusion and are in violation.

Mr. Pauley inquired regarding the multiple addresses being one building and Ms. Gilbert explained it is townhouses and on the ends there are upper and lower level units for six units total.

Mr. Pauley referred to one invoice dated 1/16 that he could not tell the address and Ms. Gilbert noted it just says 2666 Sequoia at the top.

MOTION: Mr. Motley moved to find in case DCEB 20-033 based on testimony, evidence and facts presented in law and that at the time of the alleged violation the International Property Maintenance Code Section 309 was in full force and effect and the Respondent is found in violation thereof and that the Respondent shall come into compliance by March 13, 2020 or suffer a fine of \$250.00 per day. Second was made by Ms. Graham.

Chair Bowman suggested March 13 is only ten days which is not much time.

Mr. Motley stated they have companies that have responded and they have had several companies that have responded already, so they are on notice to respond, so he does not see a problem with getting a company out there in ten days. He asked the City's opinion.

Ms. Gilbert stated her process is that if they can provide evidence that they are getting someone other than Dr. J's because he is obviously not correcting the exclusion then it could be extended another week or two, she would have no objection, 3/20 would be fine.

Mr. Motley amended the motion to a compliance date of March 20, 2020. Ms. Graham let her second stand.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

Chair Bowman reviewed the Finding and Order of the Board.

Chair Bowman advised to move quickly.

BREAK 3:25 P.M. – 3:30 P.M.

OTHER BUSINESS

Chair Bowman explained that requests for fine reduction are done in writing and if the Board had any questions the respondent would be asked to be sworn in to address the Board.

- 1. DCEB 17-747 Request for Fine Reconsideration**
City vs. T & G PROPERTY MANAGEMENT OF CENTRAL FLORIDA
508 Vine Avenue
Current Owner: T & G Property Management of Central Florida
Fine due as of 3/3/20: \$34,551.55

Chair Bowman determined the respondent was not present; however, Attorney John Landkammer of 201 N. Florida Ave. Suite 2800, Tampa, FL 33602 representing the property owner was present.

Time was provided for the Board members to review the written request for fine reduction.

Vice-Chair Suplicki verified with Ms. Gilbert this case was prior to her being with the City and she had no historical knowledge of the case; though she did have the case file available which was exactly the same as was provided to the Board. It was Inspector Kepto's case from 2017.

City Attorney Trask reminded the Board there is a Court Order from the Appellate Court that came down that says the Board is not to elicit testimony from any witnesses and so forth; therefore, asking questions is eliciting testimony and the Board should not be doing that. The Board can make a determination as to whether or not they want to hear oral argument from the attorney and under the Board rules they have the opportunity to do that. The Board is under notice they may request oral argument, but the Court made a specific ruling that because you asked questions of the appellant in that case it was not appropriate. He did not think the Board should be going down that path again, otherwise they will be back here in another couple of months.

Mr. Motley stated according to the documents received the Sixth Judicial Court has ruled that the petitioners' rights of due process for a violator because of the questioning the Board did from the

respondents. He asked if it was correct that this case would be handled exactly like the Board would handle any other case.

City Attorney Trask explained the Court has now ruled that the Board should not be doing that, so they should not.

Mr. Motley asked if the Board should not be asking or having the respondents come to the podium and answer any questions. City Attorney Trask noted that is anyone; it says eliciting testimony was a violation, it did not say eliciting testimony from the appellant, that is what happened at that meeting, so it is not noticed as an evidentiary hearing, the rule that the Board has in effect for the past 30 years, Rule 5 Section 4 and the Board should follow their rule.

Mr. Motley stated so he is clear on this issue, requests for reconsideration of fines, this is the second time that this Board has heard this reconsideration and asked if that is correct. Chair Bowman acknowledged it was. Mr. Motley stated the Board is doing that because of the petitioner's violation of rights and asked if that was correct and Chair Bowman acknowledged that it was.

When Chair Bowman commented obviously the City could ask the City questions, City Attorney Trask advised, no testimony.

Mr. Motley stated it is strictly based on the letter the Board received from the first reconsideration for fine. Chair Bowman stated apparently, yes.

City Attorney Trask read the rule into the record:

The petition must be signed by the violator, include a copy of the Affidavit of Compliance executed by the Code Officer. The petition must include conclusive evidence showing extreme or undue hardship in the paying of the fine or preventing the violator from coming into compliance within the time period established by the Board's Order. The Board Clerk shall schedule the petition to be considered. The City may present in written form a response to petition for reduction of fine. The Board shall make its determination based solely upon the written petition and the City's written response unless the Board determines it is necessary to hear oral argument from the violator and/or the City.

Mr. Motley stated the fact remains there is no mention of a hardship in the reconsideration letter. There is photographic evidence that shows major structural damage to the roof and testimony that the roof repair was done without first securing a work permit by a licensed contractor; therefore, he recommended denying the reduction in fine.

MOTION: Mr. Motley moved in case DCEB 17-747 to deny the request for fine reduction. Second was made by Mr. Chize.

VOTE: Motion carried 5 - 1 with Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, Ms. Graham.

2. **DCEB 19-693 Request for Fine Reconsideration**
City vs. KELLI NICOLE COHEN
1307 Ranchwood Drive East
Current Owner: Kelli Nicole Cohen
Fine due as of 3/3/20: \$6,060.46

Chair Bowman determined the respondent was not present.
Time was provided for the Board members to review the written request for fine reduction.

MOTION: Vice-Chair Suplicki moved in case DCEB 19-693 to reduce the fine to \$250.00 to be paid by March 20, 2020 or the fine reverts to the original amount plus interest. Second was made by Mr. Pauley.

VOTE: Motion carried with Ms. Graham, Messrs. Motley, Pauley, Chize and Suplicki voting aye. Chair Bowman voting aye. Voting nay, none.

Chair Bowman reviewed the decision of the Board.

Meeting adjourned at 3:50 P. M.

NOTE: This meeting was recorded and those recordings are a part of the official file.

Michael Bowman, Chair
Dunedin Code Enforcement Board