



Code Compliance Board Regular Meeting Minutes

August 1, 2024 at 3:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

Douglas Bond, Steve Heller, Paul Mandelkern, Todd Boyer, Wayne Johnson, Melissa Blaney, Carlos Diez-Arguelles

Legal Representation

Deputy City Attorney Rick Geller

Staff Present

Chief Building Official Gary Hiatt, Allison McGillis, Director, Planning & Zoning, Code Compliance Division Manager Susanne Porras, Code Compliance Officer Phillip Wade; Code Compliance Officer Christina Busch, Board Secretary Susan Pruchnicki.

1. Call to Order

The meeting was called to order at 3:00 PM.

2. Swearing in of Witnesses

Witnesses were sworn in by Board Secretary Susan Pruchnicki

3. Consent Agenda

- a. Approve the minutes of the June 6, 2024, Regular Meeting

Board Member Steve Heller made a motion to approve the minutes as presented. Board Member Paul Mandelkern seconded. Motion unanimously passed 7-0.

4. Public Comments (for items not on the agenda): Three minutes allowed for each speaker

None

5. Public Hearings (Public participation and comment on these matters must be in person.)

Division Manager Susanne Porras requested permission to move case LDC-24-0103 to the first case heard; the board agreed.

a. CCB# - LDC-24-0103 1303 W. Fairbanks Ave., Winter Park, FL 32789

VIOLATION DESCRIPTION: The property, a non-residential dwelling, is currently being rented or utilized on a short-term rental website for less than one month, which is a violation of the city code.

CODES CITED: Chapter 58, Section 58-84 (y) Short term rental of residential dwellings of the City of Winter Park Land Development Code.

Code Compliance Officer Christina Busch presented documentation of the property location, zoning, and ownership as verified per Orange County official records. This property was brought to our attention by a third-party website, Granicus Host Compliance, which identifies short term rentals. Notice of Violation and Amended Notice of Violation were sent via regular and certified mail and posted on the property and at City Hall as per Florida Statute 162 due process requirements.

April 1, 2024 was the date of the initial inspection. An Airbnb listing was found for a two-night stay. An educational letter was issued. A follow-up inspection was conducted on April 15, 2024, the property was listed for a two-night stay. A Notice of Violation was issued on April 15, 2024. Follow-up inspections were conducted May 1, 2024, May 8, 2024, May 16, 2024, and May 22, 2024; the property was listed for a minimum two-night stay each time. A follow-up inspection on June 24, 2024, found the Airbnb listing was changed to a minimum stay of 30 nights.

The Notice of Hearing was posted on the property July 18, 2024. Follow up inspections were conducted on July 19, 2024 and August 1, 2024; the Airbnb listing was for 30 nights. As of today, the property is in compliance.

Airbnb reviews were presented to the Board confirming stays for a few nights to one week between 2018 and 2023. Board Member Paul Mandelkern asked officer Busch to confirm that the property was in compliance as of June 24, 2024, and that the violations occurred before that date. Officer Busch responded yes.

Board Chairperson Wayne Johnson noted emails between the city and the owners and inquired how that affected the violation.

Allison McGillis, Director of Planning and Zoning for the City, responded to Mr. Johnson's question, explaining that the property has a non-residential classification, and General Provisions state you cannot have short-term rentals. Even though there is a residential unit on the second floor, it cannot be a short-term rental, which is why it is in violation.

Paul Mandelkern confirmed with Ms. McGillis that it made no difference if the zoning was commercial or residential, the short-term rental was not permitted. She responded yes. Mr. Mandelkern then asked about an exception for a hotel. Ms. McGillis responded yes, however, the city identified a hotel as having 10 or more rooms.

Board Member Melissa Blaney confirmed with Ms. McGillis that short-term rental was defined by 30 days; she responded yes.

Board Member Doug Bond confirmed that the owner is now in compliance. He asked officer Busch if the owner ever contacted her. Officer Busch responded no, but that they did contact Officer Porras. Officer Porras stated that the owner contacted her, and also Jeff Briggs from Planning and Zoning.

Paul Mandelkern asked Officer Busch if other than the reviews, there was other evidence the unit was being occupied. Officer Busch responded yes. She presented the rental history from the Granicus Host Compliance website that tracks the property, showing the number of times the property was rented per month and the number of nights stayed. Mr. Mandelkern requested how a documented stay was determined. Officer Busch responded that Granicus Host Compliance obtains this information from the short-term rental website, in this case Airbnb.

Respondents Jaycelle Veigle, 131 Killarney Dr., Winter Park, FL 32789 and Alison Felix, 1415 Lake Daniel Dr., Orlando, FL 32804, owners of the property, introduced themselves. Ms. Felix offered their apologies and ignorance to the Board, they have never been before them. Ms. Felix stated that she believed there was a misunderstanding, that they were in communication with Jeff Briggs from Planning and Zoning about whether this was a viable listing and it was communicated to them that it was. She stated that when they were notified of the violation, they immediately complied. She then said that she was sure the board had questions, and they did too about how this hearing worked, but that they were doing their best based on what they were instructed to do.

Ms. Veigle noted that the property is zoned commercial; the downstairs portion is commercial, but the upstairs portion is residential. It was their understanding that since the residential property was not in a residential zone that they were able to list it on Airbnb. She stated that they had emailed back and forth with Jeff Briggs multiple times, and it was their understanding that this was allowed. Since then, they had been put in touch with Allison McGillis, and she explained to them that this was not the case. Ms. Veigle stated that the listing was immediately changed to a minimum 30-night stay, and that it was never their intention to break any rules.

Board Member Carlos Diez-Arguelles confirmed with the respondents that they did reach out to the city prior to listing the property. Ms. Veigle responded yes, because the unit was a small piece of the property in a commercial zone. It was their understanding that Airbnb's were not allowed in residential zones. She noted she had emails dated prior to the property being listed clearing that up.

Allison McGillis clarified that Mr. Briggs stated it was permitted was because the city's understanding was that people staying there was in conjunction with the business on the first floor, and that it wasn't an Airbnb or any type of short-term commercial rental. When it was discovered that the unit was being rented on Airbnb, it was determined to be in violation. Being located in a commercial zone, the unit could only be occupied in conjunction with the business on the first floor.

Wayne Johnson referenced an email dated May 10, 2024, from Jeff Briggs saying the property was in a unique situation of commercial office property, in which a short-term rental is permitted. It has always been residential upstairs in commercial zoning and allows for short-term rental ability. Mr. Johnson asked Ms. McGillis if her communications were after that email. Ms. McGillis responded yes, and offered clarification that in the email Mr. Johnson referred to, it was Mr. Briggs' understanding that it was being rented in conjunction with the first-floor modeling agency by the communication given to the city, not as an Airbnb.

Ms. Veigle interjected that the way they read the mail they had permission to proceed with the property rental. However, as soon as they found out from Ms. McGillis that this wasn't the case, they changed the listing to a long-term rental.

Board Discussion:

Steve Heller stated he understood the possibility of a misunderstanding in the matter, and also recognized that the Respondents have made every attempt to put themselves in compliance.

Officer Porras offered Mr. Johnson more information related to the case. The City understands that the Respondents are compliant, and have been for a while. The reason the case was brought before the board was to have it adjudicated and recorded.

Paul Mandelkern questioned what the City wanted the Board to do, if they were to find the property in violation of the short term rental code. Ms. Porras stated that they were in violation, and wished the record to reflect the adjudicated violation so that if it happens again, the case can be brought back as a repeat offender. Mr. Mandelkern confirmed that the property is in compliance today. Ms. Porras responded yes, but the Notice of Hearing had already been issued and the city wants the record to show that they were in violation and the case was adjudicated.

Wayne Johnson expressed his concern that other Respondents had come into compliance, and those cases were dismissed by the city; one dismissed by the board. He referenced one email provided as evidence stating they were in compliance and then a second saying they weren't.

Building and Permitting Director Gary Hiatt addressed Mr. Johnson and the board, stating that as noted at the last meeting, the city is handling these cases at the direction of the City Commission in order to address short-term rentals systematically to increase enforcement. In a memo that was created, this is the process that was outlined. Mr. Hiatt noted that it is up to the Board to decide whether or not the evidence presented is enough to find them in violation. The concept was not to assess fines or find them in violation, but to adjudicate the case so that if the violation occurs again, it is a repeat violation.

Melissa Blaney believed there was a genuine misunderstanding, and felt it would be harsh to put the respondent up for a repeat offense. She does not believe there was ill intent on the part of the Respondents, or with malice based on correspondence with the city.

Doug Bond proposed to dismiss the case.

Motion:

A motion was made by Wayne Johnson:

From the evidence presented today, the property owner has been properly notified per regular and certified mail to satisfy Florida Statute Chapter 162 due process requirements. I move to find the Respondents, Winter Park Land Development, LLC, Compliance Board Case #LDC-24-0103, owners of 1303 W. Fairbanks Avenue, Winter Park, FL 32789 in compliance as of June 26, 2024. Any prior non-compliance appears to have been based upon representations of the city. I therefore move to dismiss the case as presented.

The motion was seconded by Steve Heller. The motion passed with a 6-1 vote.

b. **CCB# - PM-24-0058** 630 W. Swoope Ave., Winter Park, FL 32789

Violation Description: Windows and doors boarded up exceeding 60 days. Utility services to include, electric, water and sewer are disconnected on the property. Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief.

Codes Cited: Chapter 22 Section 22-176 (adopting the International Property Maintenance Code 2021 edition), 22-177 (amending the International Property Maintenance Code), Section 108.9 Vacant Buildings, Section 202 (1), (2), (6), (8), (13) and (21) Nuisance, and 304.13 Windows, Skylight, and Door Frames.

Code Compliance Officer Phillip Wade presented documentation of the property location, zoning, and ownership as verified per Orange County official records. Officer Wade stated that the property was brought to the city's attention by multiple complaints. Notice of Violation and Amended Notice of Violation were sent via regular and certified mail and posted on the property and at City Hall as per Florida Statute 162 due process requirements.

The initial inspection was conducted on March 21, 2024, based on a complaint from neighbors of a neglected structure. Follow-up inspections were conducted on March 22, 2024, and March 29, 2024. The inspection conducted on April 23, 2024, found broken windows. An inspection on April 24, 2024, found the front windows were boarded up, but the windows in the rear were still broken and the property unsecured. A follow-up inspection was conducted on April 26, 2024, and the Notice of Violation was posted on the property April 26, 2024.

Follow-up inspections were conducted on May 4, 2024, May 8, 2024, and May 10, 2024, but Officer Wade witnessed no resolutions to the violations. A follow-up inspection was performed on May 20, 2024, and the Notice of Hearing was posted on the property that day.

Follow-up inspections were performed May 23, 2024, May 28, 2024, May 29, 2024, June 1, 2024, and June 10, 2024; the windows were still boarded each time. A follow-up inspection on June 24, 2024, found that the boards were removed from the front windows, but the side and rear windows were still boarded.

Follow-up inspections were conducted July 9, 2024, and July 15, 2024; the conditions remained the same. A follow-up inspection conducted on July 18, 2024, found that the only boards remaining were on the side of the house. An Amended Notice of Violation and an Amended Notice of Hearing were posted on the property July 18, 2024.

A follow-up inspection was conducted on July 31, 2024. All boards were removed, and the windows and doors repaired. Utility services had been restored.

Paul Mandelkern asked what the violation was as of August 1, 2024. Officer Wade stated that all violations had been brought into compliance. Wayne Johnson confirmed with Officer Wade that compliance was met on July 26, 2024.

Gary Hiatt added that there is an open window permit for the property that has not been closed out through a final inspection.

Carlos Diez-Arguelles asked if there were any fines levied on the property. Officer Susanne Porras answered that there is currently a lien on the property from a previous case (2021) recorded with Orange County for similar violations. Officer Porras told the board that she had a presentation forthcoming to provide on the previous cases for the property.

Paul Mandelkern asked about the proposed motion provided to declare the property a public nuisance. Officer Porras noted that additional evidence to be presented would support this. Wayne Johnson asked if the presentation was a part of this case, or a separate case. Officer Porras stated she will be presenting evidence from two previous cases showing that the property still has a lien pending, and to demonstrate the repetition of violations. A member of the Winter Park Police Department will also present the criminal mischief side to the case being presented.

Officer Porras presented photos related to Officer Wade's case. Officer Porras assisted Officer Wade on the June 4, 2024 inspection. They met the property owner, Ms. Rosetta Betty. She was there cleaning up debris, trash, and other articles from the interior. At this time, assistance was requested from Winter Park Police Department due to tenants showing up while Ms. Betty was cleaning up the property. A female tenant was very belligerent to Ms. Betty and to city staff. The police officer remained on the property because the situation became risky for a moment. The tenant eventually left with her belongings (pictured).

Officer Porras next presented an overview of previous cases #21-818 (overgrowth/trash/debris/unsightly articles) and #21-98 (broken windows/missing door) that she was involved in that are very similar to the case being presented today by Officer Wade. Notices were served to the property owner, Ms. Rosetta Betty, and a contractor work order was produced to secure the home by boarding the windows and front door. The contractor took care of removing all trash, debris, and unsightly articles from the front, side and rear of the property and mowing the lawn. The property was repaired. Officer Porras provided photos from July 19, 2021, showing the similar violations described. The property was unsafe, there were people coming and going from the property, and the city was receiving numerous complaints from the community. There are neighbors from the community here today to speak on that subject because the property has been deemed unsafe many times.

It creates a problem for the community and for Winter Park Police as they have to respond every time the neighbors call, and becomes a safety issue for code compliance as well.

Officer Porras provided photos dated July 20, 2021, of a contractor sent by the city to clear the trash, debris, and discarded articles; they mowed the property as well. This is where the lien comes in; it is still active with Orange County (has not been paid). This presentation was to document the repetitive history of not only the criminal mischief, but also the broken windows, doors missing, transients, and illegal activities, which she felt were relevant to the case presented today. Sergeant Talton from the Winter Park Police Department will present a history of the calls received daily for this property.

Wayne Johnson asked about the utilities on the property. Officer Porras noted that they are connected now, but when Ms. Betty's son returns to the property, everything is like a revolving door. It doesn't mean that they will stay current, and that we won't be back here again. Officer Porras stated that it is very important that these details be shared so that the Board can understand the impact that this property is causing to the community, the police department, and to city staff. Officer Porras understands that the older cases are not related to the current one, but wanted to share them.

Mr. Johnson asked if the owner lived there, or does her son live there, or do they just come by and fix it up occasionally. Officer Porras confirmed that Ms. Betty does not live there, and that she allows her son to stay there. The problem is that he allows other people to stay there. The City doesn't know if they are the ones destroying the property and committing the criminal mischief; it's just a mix of different things.

Melissa Blaney asked Officer Porras if the home is a rental property. Officer Porras responded no, that Ms. Betty allows her son to stay there.

Sergeant Talton from Winter Park Police Department introduced himself, and stated that his unit primarily dealt with drug investigations. He stated that this location has been on the radar for years with both the specialized units and the patrol officers due to the type of people that frequent the property, but in particular, between March – April of 2024, there was an uptick in the number of complaints of open-air drug activity that was happening at the property.

Sgt. Talton confirmed that the board was provided a copy of the XCAD History Search for their consideration. He explained that the department has a computer-aided dispatch system through Seminole County; all police officers have this on the computers in their cars. Each column on the report represents a different call for service, catalogued by event number, date, time, type of call code. The numbers to the right are the call signs from the officer(s) that responded to the call. This search was from approximately February of 2023, and Sgt. Talton identified 16 more serious types of calls that were responded to on that street.

Sgt. Talton noted he can confirm without a spreadsheet the number of calls on that property that are responded to are far more than any other house on the street. Some of the call types on the report are for suspicious persons, stolen vehicle, criminal mischief, trespassing, battery, disturbances, threats, suspicious incident, etc. In particular, in April 2024 there was an uptick in drug activities at that house.

Sgt. Talton stated that an officer could drive by the property any time of day and there would be people hanging out, some who were known to the department through prior interactions as drug dealers. Frequent foot and vehicle traffic in and out was occurring all day long; they weren't even trying to hide it. Surveillance was set up (type undisclosed to protect the integrity), and we continued to monitor the area. What stemmed from there was on April 9, 2024. Officers responded to a disturbance for two people who were squatting there; he believed they were living in the shed located on the back of the property. This turned out to be an attempted murder by strangulation. The subject wasn't arrested on that date, but an arrest warrant was obtained. During the surveillance by the Orange County Felony Apprehension Squad (they are tasked with making arrests of more violent outstanding subjects) for the suspect, officers witnessed many hand-to-hand drug transactions on the side of the property. So much was witnessed that they were able to obtain a search warrant. This addressed the drug activity and they were able to capture the wanted subject on April 18, 2024. In the process of extracting the subject from the residence, the windows were broken.

Other notable events found while searching the report system were the battery by strangulation on April 9, 2024; there was a warrant arrest for a subject there on March 14, 2024; battery to a female on May 3, 2024 (a male was arrested); squatting residents; another arrest of a wanted subject on May 18, 2024; officers also recovered a vehicle that was reported stolen by the Eatonville Police Department at that property on February 14, 2023.

Paul Mandelkern asked Sgt. Tolton what the report code "87-IR" meant. Sgt. Tolton explained that officers had the ability to put themselves out on certain types of calls; this code means that an officer is letting other officers know that they are patrolling or that there is an officer present at the location. Oftentimes the code is used as a deterrent or to spot illegal activity that may be going on.

Wayne Johnson asked Sgt. Tolton if he had personally been to the property. He responded yes, several times over the years. Mr. Johnson asked if Sgt. Tolton saw Ms. Betty's son or anyone there. Sgt. Tolton responded yes, but clarified not on any of the dates mentioned in particular, just that he recalls being at the house and seeing Ms. Betty's son there.

Mr. Johnson asked Sgt. Tolton if the house looked generally in disrepair. Sgt. Tolton responded not for the last month or so, it's been fixed up, but for quite some time it was in disrepair.

Respondent Rosetta Betty introduced herself. Ms. Betty told the board that she was very unaware of what had been described as happening on her property. She stated that when Officer Porras reached out to her by phone she responded and corrected the violations. She said that no one wants their property to be in disregard, much less others in the community. She said the reason the boards remained for so long was because the windows had been fixed, but she felt them being broken in the first place was malicious behavior after she saw what was happening on the property, and wanted to protect the new ones.

Ms. Betty stated that she tried to remove the squatters from her property, and thanked the Winter Park Police Department in aiding her with this task. She then proceeded to fix up the property. She said her intentions are not to let this happen again, that she will be moving into the property to ensure that it doesn't.

Ms. Betty stated that she did buy the property for her son to help him out in 2012. She also said that she realizes that her care and help are not appreciated by her son, that she is being torn down, and her son is not welcome there anymore. She said this is very hard for her to see, that she works hard and this is the thank you she receives. Ms. Betty offered her apologies to many of the neighboring homeowners, that she realizes it is unfair, and she would not like it if it happened to her.

Ms. Betty stated that she has done what was needed to be in compliance, and that these issues will not continue, that she can see the malicious behavior and will not stand for it. She recognized that this situation is like throwing hard earned dollars in the trash. She then apologized again to those present at the meeting, and hoped the Board would be merciful since she was not living there, not personally committing the violations, and was not aware.

Mr. Johnson asked Ms. Betty when her son stopped living there. Ms. Betty stated that she saw her son in April before traveling to Jamaica (bereavement), and told him he was not welcome on the property. Mr. Johnson asked if Ms. Betty could provide a more specific date. She stated late April, that she returned from Jamaica the first week of May, but did not see him. She stated when she finally spoke to him she expressed how disappointed she was in him that the home was in such disarray, the condition just awful.

Mr. Johnson inquired about the unpaid lien for the clean-up from the 2021 case. Ms. Betty stated she was not aware of the lien, but that she would take care of it.

Melissa Blaney asked Ms. Betty who was taking care of the property in 2021. Ms. Betty said that Officer Porras contacted her and she took care of it. She thought her son would have done the correct thing, and understand he cannot harbor people. Ms. Blaney confirmed that Ms. Betty plans to relocate to the home. Ms. Betty said that the inside of the home is being painted, and that she should be moving in a week or two.

Carlos Diez-Arguelles stated he was confused with the timeframe. He noted that from the presentations that the property has been in constant disrepair. He asked Ms. Betty if she was telling the board that she fixes the home and then her son destroys it again? Ms. Betty said no, that when she was called about it, because she is not there all the time. Mr. Diez-Arguelles asked Ms. Betty how far she lived from the property, and if she ever drove by to look at it. She stated that she trusted her son to do the right thing. She visited the property after she was called, she saw what had happened, and she took care of it. This was the first time (2021) the problem occurred.

Officer Porras clarified that she had not spoken to Ms. Betty recently, that she was communicating with Officer Wade. Officer Porras said she did speak with Ms. Betty in 2021 regarding that case, and that Ms. Betty was aware of the lien because she requested a reduction on the administrative fees. We did talk about the lien before it was recorded. Ms. Betty apologized, that she did not remember this, but she can take care of it immediately.

Mr. Johnson then asked Sgt. Talton if he was aware of any requests to remove trespassers from the property. Sgt. Talton replied he had no personal knowledge, and noted that there were requests for assistance at the property but could not confirm who they came from.

Ms. Blaney asked Officer Porras if there was anything prior to 2021 against the property. Officer Porras said no, that those two cases were the only ones that went far enough to issue a Notice of Hearing because it took longer for Ms. Betty to make the repairs, and that only the overgrowth case is linked to the lien.

Ms. Kelly Price of 890 Georgia Ave., Winter Park, FL 32789 introduced herself as a local resident and a Realtor having knowledge of property values and extensive knowledge of the local market, not only the houses but also the people. She stated that Ms. Betty does own this property, but that she has had several encounters with Ms. Betty's son "Shadow" (not his real name, but what everyone calls him). He has always been very respectful and nice to her.

Ms. Price stated there have been many visitors, squatters, and drug dealers on Ms. Betty's property. Ms. Price asked the board if any of them had driven past the property; none responded. She stated that it was a shame, that it was probably on their way to City Hall. She stated that they would not want this property next door to them if you live in Winter Park. She told the board that she lives in a house to the south of the property, owns a house to the east, a house two doors to the north, and a house four doors to the south, so she is kind of surrounded by Shadow and Ms. Betty's house. She stated this has been a most horrible experience, and the problems at the property have been going on for years. She referenced Sgt. Talton's presentation about the number of times the police have been called. Ms. Price presented an extension cord that was being plugged in to her house for electricity by the people living at the property because there were no utilities available (she reported this theft to the Police Department) as evidence. She stated that it is unbelievable that this has been allowed to go on in Winter Park for years. Residents have called the police and code enforcement. She has personally written to and called Ms. Betty. She noted other residents attending the meeting that live across the street from the property, and also a tenant that lives next door to it who is terrified. Ms. Price described when the S.W.A.T. team arrived with tanks and guns, it was an out of body experience for the people that live on W. Swoope Ave.; it was frightening. She stated the fact that this situation has been allowed to go on is really disappointing. She asked the board how they would feel if this occurred in their neighborhood.

Ms. Price noted that Ms. Betty stated she would be moving in to the property. She stated that the people who have been living on the property dealt drugs, and have stolen lawn equipment from her landscaper. She described those same people as hugging her and telling her they didn't do drugs. She noted she could share many stories.

Ms. Price noted that the city has records of the events on the property, that something should be done, that there should be zero tolerance, and there should be fines. She questioned when Ms. Betty would be moving into the property. She mentioned the paint color on the house is not pleasant to look at, but then recognized that the City does have code enforcement for colors. She reiterated that there can't be broken windows and doors, drug dealers, or the S.W.A.T Team, as these terrify the neighbors. She wanted the board to understand that this cannot happen in Winter Park, that it is wrecking her property values and scaring her tenants.

Ms. Price addressed Ms. Blaney directly about the property not having tenants. She stated that she knew there were "tenants" paying Ms. Betty's son rent to live there because they told her.

Wayne Johnson asked Ms. Price how often she went around the property. Ms. Price stated every day. She again noted her disappointed that none of the board members had driven by the property.

Between witnesses Deputy City Attorney Rick Geller addressed the board, noting that the Police report provided to them is a public record and available to anyone.

Mr. Charles Newton of 631 W. Swoope Ave., Winter Park, FL 32789 introduced himself. He stated he lives directly across from the 630 W. Swoope Ave., and is completely terrified. He stated he has seen knives, guns, prostitution and is horrified. He mentioned the subject that was arrested, stating the he saw him abusing the prostitutes. He also mentioned that he was threatened in an attempt to keep him from attending this meeting.

Mr. Newton stated that he saw Shadow at the property 12 days ago. He also does not believe that Ms. Betty has control of the property, in that Shadow was outside the property and brought more of the drug dealing characters with him. The drug dealing has been incessant. The squatters have just moved.

Mr. Newton stated he has been living across the street for three years, has witnessed the code compliance issues and repairs, but went back to a state of disrepair. He offered a quote from another anonymous neighbor who was too afraid to attend the meeting:

"My message is probably no different than everyone else. I do not want the homeless congregating on my street and wandering in my yard. I would like to take my dog for a walk on my own street, not walk on other streets to avoid passing the house. I've been called out and approached on several occasions, and assumed it was sexual given the prostitution on the neighboring property. For the most part, I avoid the area altogether."

Mr. Newton noted that "don't walk down Swoope" is a common phrase in the neighborhood. He asked the board to please help, that he felt trapped in his own house, and there are families with children living on the street. He also thanked Winter Park P.D. as he felt safer having an officer stationed in the neighborhood.

Next, Ms. Cindy Newton of 19025 Lake Swatara Dr., Eustis, FL 32736 introduced herself. She stated that she does not live in Winter Park, but that she loves the city, and comes here for events and to visit her son. She stated that many times she has witnessed what others have in hand-to-hand drug exchanges and also with vehicles pulling up. She stated she has seen things over the past three years go from being really bad, to being improved, to being bad again. She stated she has been watched or followed by persons on that property when walking alone on the street and that it was frightening. She stated she worries about her son, and also the health of the people staying on the property with broken windows and possible mold growth inside.

Mr. Cali Anthony of 601 W. Swoope Ave., Winter Park, FL introduced himself. He stated that he would like to reiterate the information provided by other neighbors about the property. He noted that his family included two young children, and that he travels a lot for work, up to two weeks of every month. He admitted that he worries about his wife and children when he is away. He stated that his yard is always dirty, that people from the property throw trash in his yard. He also supported Ms. Price in her statement about this devaluing neighboring property.

BOARD DISCUSSION:

Prior to discussion beginning, Paul Mandelkern asked Deputy Assistant Rick Geller what the ramification of declaring the property a public nuisance was. Mr. Geller responded that the objective was to have the case adjudicated. Typically, you would not impose fines until a Massey Hearing was held. He stated that if the case is adjudicated as a nuisance, then if nuisance conditions arise again, the case goes straight to the Massey Hearing. You will not have to have an initial hearing. Mr. Mandelkern thanked Mr. Geller for the explanation.

Melissa Blaney inquired if declaring the property a public nuisance was the maximum that could occur. Mr. Geller responded yes, with the understanding that if a Massey Hearing is necessary that fines of up to \$500.00 per day can be imposed since it is a repeat violation.

Wayne Johnson asked Mr. Geller if this decision would affect the policing of the area. Mr. Geller responded no, that this is all civil code enforcement. The police continue to have their ability to monitor the property for any type of criminal activity that may or may not happen in the future.

Ms. Blaney asked Mr. Geller what the Board can do within their bounds. Mr. Geller stated they are within their bounds to find that there are violations of all the code provisions that have been cited in the Notice of Violation. You can make a finding that today the property is in compliance, but the very fact that you have on record all of these particular code violations have occurred, that will assist city staff if they need to come back to you in the future with a repeat violation.

Mr. Mandelkern asked Mr. Geller a follow-up question while reviewing the recommended motion: since the property is in compliance as of today, is it appropriate not to include the second paragraph, only the first paragraph? Mr. Geller responded that the first sentence about removing boards and repairing broken windows would no longer be applicable, but you can say that future violations will result in fines of up to \$500 per day due to the repeat nature of violations that have occurred on this property. Mr. Mandelkern noted that the recommended motion would need to be revised based on the evidence presented; Mr. Geller agreed.

Ms. Blaney asked if they could add to the motion that Ms. Betty will be in residence by a certain date as she stated she would. Mr. Geller responded that the addition would very likely exceed the scope of the Board's authority, to order someone to live somewhere. He would be reluctant to have that included in the motion.

Mr. Geller stated the Board's authority under Florida State Statute 162 would be to make such orders as to bring the property into compliance, but it is now in compliance. Ms. Blaney responded that the board's hands are tied, that is was brought up that nothing was being done about the property, they are only doing what they can, only so much they can adjudicate. Mr. Geller responded that the board can act within the provisions of both the Florida Statutes and within the city codes. The board can make whatever findings you wish. They would set up the "if" circumstances that warrant this coming back in the future, and the staff will have your findings of fact that there were violations and conclusions of law.

Ms. Blaney confirmed that bottom line, the board could declare the property a nuisance, and future violations would be fined at \$500.00 per day. Mr. Geller reminded that this case was not Noticed as a Massey Hearing today; he would be reluctant to have the board go right into issuing more fines.

Carlos Diez-Arguelles inquired what exactly the city wanted to be done. Mr. Geller responded that the city obviously does not want this property in violation anymore, or want repeat violations. Mr. Diez-Arguelles asked Mr. Geller what the board needed to do to prevent future violations; is it adjudication? Mr. Geller responded adjudication, a finding of facts that based on the broken windows, the trash, the drug dealing, all the evidence that you heard here, that this property was a nuisance, all the different codes that were cited in the recommended motion were in fact violated. Again, you will set this up so that if any violations happen again, the case goes straight to a Massey Hearing, and fines can be imposed at that point.

Ms. Price raised her hand; Mr. Johnson told her that that the board was in discussion and questions were only allowed between the Board and the attorney.

Board Member Todd Boyer proposed the following motion:

From the evidence presented today, I move to find Rosetta Betty, Code Compliance Board Case #PM-24-0058, owner of 630 W. Swoope Avenue, Winter Park, Florida 32789 in violation of Chapter 22, Section 22-176 (adopting the International Property Maintenance Code, 22-177 (amending the International Property Maintenance Code), 202 (1), (2), (6), (8), (13) and 21 Nuisance, Section 108.9 Vacant Buildings (boarding) and 304.13 Windows, Skylights, and Door Frames of the City of Winter Park Property Maintenance and Nuisance Code. Staff is requesting that the Board deems the "Property" as a "Public Nuisance" based on the evidence presented by Code Compliance staff and the Winter Park Police Department related to repeat violations of the Nuisance chapter and the history of criminal mischief and that it applies the highest fine possible.

The respondent as of today, August 1, 2024, is in compliance but the owner must remain code compliant and have the home remain safe. Failure to comply with this order will result in fines of up to \$250.00 per day for each date the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide further documentation of action taken by August 23, 2024.

Mr. Geller suggested changes to the motion, the first being that it could be changed to "was in violation" instead of "in violation", and the second suggestion would be that instead of \$250.00 per day, you could say up to \$500.00 per day for the repeat nature of the violations. Mr. Boyer agreed to make those changes to the motion.

Mr. Johnson reminded Mr. Boyer that the motion should include the proper notification of the owner, and that they appeared live before the board.

Mr. Heller asked if there was anything that could be placed in the motion to expedite future violations. Mr. Geller responded that the case would go directly to a Massey Hearing. Mr. Heller stated that there would still be down time to serve the Notice of Hearing, so it could be a couple of months? Mr. Geller agreed, that there are still the Notice requirements.

Ms. Blaney questioned if the fines would start day one, when it was noticed, and would run up until compliance. Mr. Geller said yes. Ms. Blaney proposed a scenario that if it was 60 days until the Massey Hearing, that the fines would be retroactive at that point. Mr. Geller responded absolutely. The Board can make its findings at the Massey Hearing retroactive to the date the violation was first observed. Ms. Blaney questioned if they could impose fines in this motion. Mr. Geller did not recommend doing so as this was not Noticed as a Massey Hearing.

Mr. Mandelkern stated that the board could not impose fines at this hearing because the property is in compliance.

Mr. Heller asked a process question to staff. If code compliance finds this property in violation, is it an immediate call to the homeowner? Officer Porras responded that it would be a Notice of Hearing sent for the next Code Board Hearing. Mr. Heller understood that, but asked if the officer would contact the owner. Ms. Porras responded that the property would be posted immediately to give the owner notice.

After discussion, Mr. Boyer proposed an amended motion:

The property owner has been properly notified per regular and certified mail and in person to satisfy Florida Statute 162 due process requirements. If the Board is in agreement with this and the evidence submitted and determines an order shall be issued. From the evidence presented today, I move to find the Respondent, Rosetta Betty, Code Compliance Board Case #PM-24-0058, owner of 630 W. Swoope Avenue, Winter Park, Florida 32789 was in violation of Chapter 22, Section 22-176 (adopting the International Property Maintenance Code) 22-177 (amending the International Property Maintenance Code), 202 (1), (2), (6), (8), (13) and 21 Nuisance, Section 108.9 Vacant Buildings (boarding) and 304.13 Windows, Skylights, and Door Frames of the City of Winter Park Property Maintenance and Nuisance Code. Staff is requesting that the Board deems the "Property" as a "Public Nuisance" based on the evidence presented by Code Compliance staff and the Winter Park Police Department related to repeat violations of the Nuisance chapter and the history of criminal mischief and that it applies the highest fine possible.

The Respondent as of today, August 1, 2024, is in compliance but the owner must remain in compliance to have the home remain safe. Failure to comply with this order will result in fines of up to \$500.00 per day per violation for each date the violation continues.

Paul Mandelkern seconded the amended motion. The motion passed unanimously with a 7-0 vote.

c. **CCB# - LDC-24-0039** 961 Bonita Dr., Winter Park, FL 32789

VIOLATION DESCRIPTION: The Property, a residential dwelling, is currently being rented, used, occupied on a short-term rental website for less than one month, which is a violation of the City Code.

CODES CITED: Chapter 58, Section 58-71(z) Short-term rental of residential dwellings of the City of Winter Park Land Development Code.

Code Compliance Officer Christina Busch presented documentation of the property location, zoning, and ownership as verified per Orange County official records. Notice of Violation and Amended Notice of Violation were sent via regular and certified mail and posted on the property and at City Hall as per Florida Statute 162 due process requirements.

The property was brought to our attention by Granicus Host Compliance, a website that identifies short-term rentals. The initial inspection was conducted on January 2, 2024. The property was listed for a minimum of three nights. An educational letter was issued. Follow-up inspection completed on February 14, 2024, an Airbnb listing set for a 30-night minimum, and a VRNP listing was also listed for a 30-night minimum. A follow-up inspection on March 18, 2024, showed that the property had reverted its listing to a two night minimum stay for both Airbnb and VRBO. A Notice of Violation was issued on March 18, 2024.

A follow-up inspection was conducted on April 4, 2024. Upon receipt of the Notice the listings for Airbnb and VRBO were changed to a 30-night minimum stay. A follow-up inspection was conducted on May 20, 2024, and the property was found in violation again. Both the Airbnb and VRBO listings were changed back to a two night minimum stay. A Follow-up inspection was conducted on June 26, 2024, both the Airbnb and VRBO listings were changed back to 30 nights. On July 18, 2024, a Notice of Hearing was posted on the property. A follow-up inspection was conducted on July 19, 2024, both listings were set for 30 nights. A Follow-up inspection conducted on August 1, 2024. As of today, the property is in compliance, the Airbnb and VRBO listings are both for a 30-night minimum stay.

Officer Busch provided reviews from Airbnb confirming stays for less than 30 nights. She also provided reviews from VRBO, and a rental history generated by the Host Compliance website used by the city. She noted the purpose of bringing this case today is to have it adjudicated as it is currently in compliance, however the listings keep changing.

Wayne Johnson asked Officer Busch to go back to the slide for July 19, 2024. He asked if on the October VRBO listing someone could select certain dates. Officer Busch explained that once the first date is selected, the calendar automatically blocks the next 29 days, which is how she determines the number of nights of the listing. VRBO doesn't provide an actual display of the minimum nights' stay (as displayed on the Airbnb calendar).

Mr. Johnson asked how many times the listing was changed. Office Busch stated they did it twice, once when they received the educational letter which states the code and lets them know they are in violation it was changed to 30 nights and then they changed it back to the two-night minimum stay about a month later. When the Notice of Violation was issued they changed it to comply with the compliance requirement date, and about four - six weeks later they changed it back to the two night minimum.

Steve Heller asked what the listing is currently. Officer Busch responded it is currently set for a 30-night minimum. He then asked Officer Busch how often she gets the reports. Officer Busch responded as often as she looks at the site. He asked if they had to be ordered for a certain property or if it was city-wide. Officer Busch responded it was city-wide; the Host Compliance site displays a map, then shows what properties have been found in violation of the short-term rental code. The site updates every time it's clicked on to display the most recent information. Mr. Heller then asked when Officer Busch finds a property in violation, how often she checks to see if they are back in compliance. Officer Busch responded typically one to two weeks; it depends on the length of time they are in compliance.

Carlos Diez-Arguelles asked Officer Busch if the people change the listing back and forth because it's easier to rent the property for two or three days than it is for a month. Officer Busch confirmed this. Mr. Diez-Arguelles asked if it was Officer Busch's assumption that the owners are familiar with the code being 30-days. Officer Busch confirmed this.

Mr. Diez-Arguelles then asked how much per night the property was being rented for. Officer Busch did not know; but Mr. Johnson interjected that it was \$150.00 per night per the material provided, and confirmed it was a guest house, not the main house on the property.

BOARD DISCUSSION:

Wayne Johnson noted the recommended motion on the last page after Tab 2 in the material provided to the board.

Steve Heller offered that this case is not the same as the previous one heard, that the people knew what they were doing, and it is obvious that they were trying to game the system. If we're not watching, they are going to do it again. Definitely, he is in favor of the staff recommended motion.

Paul Mandelkern asked if the board has to provide a certain number of days after the hearing date to be in compliance. Can they just say cease renting the dwelling for less than a one-month period, or is a grace period necessary? Mr. Geller responded that is at the board's discretion, that a grace period is not required by code. We have no evidence that someone is staying there and may be kicked out now.

Melissa Blaney noted that as of now the property is in compliance, so there is no need for a grace period. Mr. Mandelkern offered that in previous cases the owners have stated that there were tenants coming in the next week and they have a contract, but no one appeared for this case. Mr. Geller agreed, that no one is being put out on the street. Mr. Mandelkern said that may be, but no evidence to that was presented. Mr. Geller said the board can find them of previously being in violation, and if it happens again the case goes straight to a future Massey Hearing.

Gary Hiatt noted that quite frankly, when the third-party sends the educational flyer and tells them this can't be done, and then you see the listing flipping back and forth that a grace period would ever be appropriate, regardless of their contracts because they know by receiving the initial educational flyer.

Motion:

Paul Mandelkern offered the following motion:

From the evidence provided today, the property owner has been properly notified per regular and certified mail to satisfy Florida Statute 162 due process requirements. I move to find the Respondent, Rubi Akooka, Compliance Board Case #LDC-24-0039, owner of 961 Bonita Drive, Winter Park, Florida 32789 has been in violation of Chapter 58, Section 58-71 General Provisions for residential zoning districts (z) Short-term rental of residential dwellings of the City of Winter Park Land Development Code.

The respondent is ordered to cease renting the dwelling for periods of less than one month. Failure to comply with this order will result in fines of up to \$250.00 per day for each day the violation continues. The respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken by August 4, 2024.

Mr. Geller suggested adding "or \$500.00 per day for repeat violations". Mr. Mandelkern agreed, and asked that it be added to the motion.

Melissa Blaney stated the last sentence be stricken because they have already shown they are in compliance. Mr. Mandelkern agreed to strike the last sentence.

After discussion, Mr. Mandelkern offered an amended motion:

From the evidence provided today, the property owner has been properly notified per regular and certified mail to satisfy Florida Statute 162 due process requirements. I move to find the Respondent, Rubi Akooka, Compliance Board Case #LDC-24-0039, owner of 961 Bonita Drive, Winter Park, Florida 32789 has been in violation of Chapter 58, Section 58-71 General Provisions for residential zoning districts (z) Short-term rental of residential dwellings of the City of Winter Park Land Development Code.

The respondent is ordered to cease renting the dwelling for periods of less than one month. Failure to comply with this order will result in fines of up to \$250.00 per day or \$500.00 per day for repeat violations for each day the violation continues.

Todd Boyer seconded the amended motion. The motion carried with a vote of 7-0.

Wayne Johnson suggested a 10-minute break, which was agreed to.

d. **CCB# - LDC-24-0087** 767 McIntyre Ave., Winter Park, FL 32789

VIOLATION DESCRIPTION: The Property, a residential dwelling, is currently being rented, used, occupied on a short-term rental website for less than one month, which is a violation of the City Code.

CODES CITED: Chapter 58, Section 58-71 (z) Short-term rental of residential dwellings of the City of Winter Park Land Development Code.

Code Compliance Officer Christina Busch presented documentation of the property location, zoning, and ownership as verified per Orange County official records. Notice of Violation and Amended Notice of Violation were sent via regular and certified mail and posted on the property and at City Hall as per Florida Statute 162 due process requirements. The property was brought to the city's attention by Granicus Host Compliance, a website that identifies short-term rentals.

The initial inspection was conducted on March 18, 2024. The property is being listed on VRBO for a minimum three-night stay. Follow up inspections conducted March 27, 2024, and April 1, 2024; the property was still listed for a minimum three-night stay on both dates.

A Notice of Violation was issued on April 1, 2024. A follow-up inspection was conducted on April 17, 2024, and the property was being listed for 28 nights. A follow-up inspection was conducted May 16, 2024, the minimum night stay had reverted back to a three-night minimum.

A Notice of Hearing was issued May 16, 2024. A follow-up inspection was conducted on June 26, 2024. Upon receipt of the Notice of Hearing the listing was changed to a 28-night minimum stay. A follow-up inspection was conducted July 16, 2024, and the minimum stay remained at 28 nights. On July 18, 2024, the Notice of Hearing was posted on the property. A follow-up inspection on August 1, 2024, found the property listed as a 28-night minimum stay. Officer Busch presented VRBO reviews and a Rental History for the property.

Wayne Johnson asked Officer Busch if there was any communication with the property owner regarding the 28-night minimum stay equating one month. Officer Busch responded that the Host Compliance system counts 28 nights as being in compliance because the code just states a one month minimum. Officer Busch responded yes, that the owner contacted her after the the Notice of Hearing was posted on his property and stated he would not be here.

Paul Mandelkern asked Officer Busch that based on the presentation, the property is still not in compliance. Officer Busch responded that per the code it is one month, but not a specific number of days. Because February is only 28 days, she could not tell the owner he couldn't post it for that timeframe.

Wayne Johnson confirmed that the property is not being listed for 30 days. Mr. Mandelkern noted that the educational letter was sent on March 18, 2024, and asked if the property continued to be listed for less than 30 days. Officer Busch responded yes. Steve Heller confirmed that the owner flip-flopped on the number of days of the listing. Officer Busch responded yes.

Melissa Blaney asked Mr. Geller how the board was to interpret that a month is 28 days. Mr. Geller responded that February is 28 days, when it's not a Leap Year. One month is at least 30 days the rest of the year. Ms. Blaney asked if the intent of the code was 30 days. Mr. Geller responded it's fair if it's February; Mr. Johnson interjected that the owner has the benefit of other months with 31 days.

Board Discussion:

Melissa Blaney asked if in the motion could say less than 30 days instead of less than one month. Mr. Geller said yes, the code says 30 days. Ms. Blaney then asked if the order could be imposed quickly, that complying only requires the owner changing the website listing. Mr. Johnson stated that was correct. Ms. Blaney asked if three days would be appropriate, even if that included the weekend. Mr. Johnson said no, then Mr. Geller asked if the question was directed toward him. Ms. Blaney said no, it was a general question to the other board members. Paul Mandelkern stated that this wording should be eliminated to remain consistent with the previous case. Ms. Blaney questioned this because the owner is not in compliance, the listing is only for 28 days. Todd Boyer suggested a compliance date of August 5, 2024.

MOTION:

Wayne Johnson proposed the following motion:

From the evidence provided today, I find the property owner has been properly notified per regular and certified mail to satisfy Florida Statute 162 due process requirements. I move to find the Respondents, Ronald A. Scarpa and Elisa B. Scarpa, Code Compliance Board Case #LDC-24-0087, owners of 767 McIntyre Avenue, Winter Park, Florida 32789 in violation of Chapter 58, Section 58-71 General Provisions for residential zoning districts (z) Short-term rental of residential dwellings of the City of Winter Park Land Development Code.

The Respondent is ordered to cease renting the dwelling for periods of less than one month (30 days) within five days of this hearing date. Failure to comply with this order will result in fines of up to \$250.00 per day for each day the violation continues.

Mr. Mandelkern asked if Mr. Johnson wanted to add "or \$500.00 per day for repeat violations" to the motion. Mr. Geller added that he would suggest this change. Mr. Johnson agreed.

Amended Motion:

From the evidence provided today, I find the property owner has been properly notified per regular and certified mail to satisfy Florida Statute 162 due process requirements. I move to find the Respondents, Ronald A. Scarpa and Elisa B. Scarpa, Code Compliance Board Case #LDC-24-0087, owners of 767 McIntyre Avenue, Winter Park, Florida 32789 in violation of Chapter 58, Section 58-71 General Provisions for residential zoning districts (z) Short-term rental of residential dwellings of the City of Winter Park Land Development Code.

The Respondent is ordered to cease renting the dwelling for periods of less than one month (30 days) within five days of this hearing date. Failure to comply with this order will result in fines of up to \$250.00 per day or \$500 per day for repeat violations for each day the violation continues.

Carlos Diez-Arguelles seconded the motion. The motion carried with 7-0 vote.

e. **CCB# - PM-24-0016** 820 W. Webster Ave., Winter Park, FL 32789

VIOLATION DESCRIPTION: Severe conditions causing appreciable harm or material detriment to the aesthetic and/or property values of surrounding. The dilapidated wood fence surrounding the property is not structurally sound and is in need of repair. Unsightly discarded articles, white trash bags, debris, broken bicycles, grill, lawn mower, plastic containers, lawn equipment, leaf blower, trash cans, black trash bags, trolley, wheel barrel, ladder, generator, crate, gas canister, vacuum, metal boxes, white cover, tarp, car parts stored on the property in plain view.

CODES CITED: Chapter 22, Sections 22-176 (adopting the International Property Maintenance Code, 2021 edition), 22-177 (amending the International Property Maintenance Code), Sections 202 (1), (2), (14) (b), (c) (16), (18) Nuisance, 302.7 Dilapidated Fences, 302.1 Sanitation & Storage of materials of the International Property Maintenance Code.

Code Compliance Officer Phillip Wade presented documentation of the property location, zoning, and ownership as verified per Orange County official records. Officer Wade stated that the property was brought to the city's attention by routine inspection. Notice of Violation and Notice of Hearing were sent via regular and certified mail and posted on the property and at City Hall as per Florida Statute 162 due process requirements.

On January 30, 2024. Officer Wade self-observed unsightly articles, trash, debris, a boat, and trailers on the front lawn of the property. A Follow-up inspection was conducted on February 7, 2024. During this inspection he observed a tent which appeared to have someone living in it. The tent was surrounded by unsightly articles, and a vehicle under piles of debris. In addition, the fence on the property was found to be dilapidated.

A Notice of Violation was posted on the property and a follow-up inspection conducted on February 16, 2024. Another follow-up inspection was conducted on February 22, 2024. The Winter Park Police Department was called for assistance to clear the tent to see if anyone was living in it.

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A follow-up inspection was conducted on March 1, 2024. Some things had been cleaned up and the boat removed. Follow-up inspections were conducted on March 2, 2024, March 4, 2024, March 5, 2024, and March 8, 2024; no visible improvements were noticed. A follow-up inspection on March 22, 2024, found metal barrels with unknown content that were added to the property, and the fence was still dilapidated.

On April 1, 2024, Code Compliance reached out to the owner of 800 W. Webster Avenue, Winter Park, FL 32789, where some of the items were stored. Officer Wade asked the owner and was granted permission to clean up that property.

A follow-up inspection was conducted on April 8, 2024; more items were placed on the right side of the front yard after the left side was cleaned. A follow-up inspection was conducted on April 9, 2024; the fence was still dilapidated and unsightly articles still remained.

On April 10, 2024, an Amended Notice of Violation was posted on the property. An inspection this date found the unsightly articles remained. On April 16, 2024, and April 20, 2024, follow-up inspections found no improvements. On April 26, 2024, a Notice of Hearing was posted on the property. A follow-up inspection found unsightly articles and the fence remained in disrepair.

A follow-up inspection was conducted on May 2, 2024, no improvements were visible. On May 4, 2024, a follow-up inspection was conducted. During this inspection the barrels had been moved, and the labeling was visible on one of them, indicating Flammable contents, unsightly articles were still present and the fence in disrepair. On May 6, 2024, a follow-up inspection was conducted, no improvements were visible. On May 10, 2024, a follow-up inspection found more articles stored on the front lawn. On May 13, 2024, a follow up inspection was conducted. An attempt had been made to repair part of the fence, but other parts remained dilapidated, and items were still stored on the left side of the property.

A follow-up inspection was conducted on May 21, 2024. More items were stored on the property and the fence was still dilapidated. Follow-up inspections were conducted on June 3, 2024, and June 10, 2024, where unsightly articles were still stored on the property. Follow-up inspections on June 14, 2024, and June 28, 2024, found more unsightly articles had been placed on the property.

On July 1, 2024, an Amended Notice of Hearing was posted on the property. On July 5, 2024, and July 9, 2024, follow-up inspections were conducted. Some items had been removed, but a lot still remained. On July 17, 2024, July 18, 2024, and July 25, 2024, follow-up inspections were conducted; items still remained on the property. A follow-up inspection conducted on July 24, 2024, found the fence still dilapidated and unsightly articles still remain. A follow-up inspection conducted on July 31, 2024, still found the fence in disrepair and unsightly articles and trash on the property.

Paul Mandelkern asked Officer Wade about the property being cleaned up at one point. Officer Wade stated that was correct, and confirmed that more items were placed on the property afterward.

Wayne Johnson asked if on April 1, 2024, the owner gave the city permission to clean up. Officer Wade clarified that the owner of the property at 800 W. Webster Ave. gave permission for the articles placed on that property to be removed. Mr. Johnson confirmed that a later inspection found more debris had been placed on that property. Officer Porras clarified that the cleaning was of the driveway only, not the area next to the fence. Mr. Mandelkern then noted that the entire property was not cleaned. Officer Porras told the board that the owner of 820 W. Webster was utilizing the church property that began on Webster and ran all the way to Swoope as additional storage for all the items stored outside.

Doug Bond asked Officer Wade if he had spoken to the property owner. Officer Wade confirmed that he had spoken with the owner's son, who is here today. Mr. Willie Clark Jr. informed Officer Wade that it is his brother who is bringing articles onto the property and he has no control, but there was no effort to make improvements.

Mr. Johnson asked if there was an earlier hearing scheduled as Amended Notices had been issued. Officer Wade responded no. When he discovered that some of the property was owned by the church he put the case on hold. Once the church was cited they gave permission for the property to be cleaned up. Mr. Johnson then clarified that the property at 820 W. Webster was owned by Mr. Clark, and the property at 800 W. Webster was owned by the church. Officer Wade confirmed this, and that additional items were placed on the 800 W. Webster Ave. property after it had been cleaned.

Todd Boyer asked Officer Wade if items remained on the driveway of the church property, and in the front yard. Officer Wade responded yes, as of July 31, 2024.

Mr. Mandelkern asked if the fence was still dilapidated. Officer Wade responded yes.

Mr. Johnson asked if the barrels that were marked Flammable had come and gone from the property. Officer Wade said they were moved when the property was first, but then brought back. He also noted that he could not see the labels on the barrels when they first showed up, but when they returned he could see the Flammable labels.

Mr. Johnson asked if there was a person living in the tent. Officer Wade could not confirm that, but noted that when the Police officers cleared the tent they noticed electricity was present and there was an air conditioning unit. Officer Wade went back to a photo in his presentation from February 22, 2024 to point this out. Officer Porras added that she accompanied Officer Wade on that inspection, and the officers said it appeared from what they found that someone was staying there. Officer Wade and I did not see it, but the Police officers saw things at the back of the tent that indicated someone was staying there, possibly overnight since no one was there at the time of the inspection.

Respondent Willie J. Clark, Jr. of 820 W. Webster Ave., Winter Park, Florida 32789 introduced himself, and noted he was at the hearing on behalf of his father, Willie J. Clark Sr.

Mr. Clark told the board that he is dealing with another family member about the articles and debris being placed on the property. Mr. Clark said that he had cleaned it up, and started repairing the fence. Mr. Clark can't get the family member to understand that they cannot keep bringing things and storing them on the property. Mr. Clark stated he was at the meeting to ask what legal action he could take to stop the family member from continuing to store items on the property.

Mr. Clark noted that his father is on a fixed income, and fencing materials are not cheap. Mr. Clark noted that he works almost six days a week, and does the repairs when he can. He is working to bring the property up to code, but is having problems with the family member that keeps bringing items on to the property. Mr. Clark told the family member he could leave vehicles there for 24 hours, as long as they are moved and brought back. He asked if this was correct. He told the family member they could not be left outside the fence permanently. He mentioned again that the family member continues to bring items onto the property despite being told not to.

He asked about items outside the fence being their responsibility; he thought that his father's property ended at the fence line. He asked who owned the property going toward the right of way that articles are being left on. Wayne Johnson asked city staff if said items were on the 800 property or the 820 property. Officer Wade responded they were on both properties. Officer Wade stated that when they cited the church which owns the driveway at 800 W. Webster Ave. the city sent a contractor out and they cleaned the church property. A lien was placed against the church property for the cost of the cleanup; the church paid the lien. Todd Boyer confirmed that the church paid the lien.

Officer Wade stated that Mr. Clark was being cited for items on the adjacent property and his property as well. Mr. Clark asked Officer Wade if he was referring to the trash cans on the front of his property. Officer Wade responded all of the unsightly articles. Mr. Johnson interrupted, telling Mr. Clark that the board was questioning Officer Wade to determine which property the unsightly articles were on. Mr. Johnson addressed Mr. Clark, noting the violation is not just the fence. The fence is one item, and it is understood that repairs are being facilitated, but the all the debris on the property is a code violation for nuisance, and regardless of family, the homeowner is still responsible for that.

Doug Bond asked if the photo showing the tent, tires, etc. was part of the 820 W. Webster Ave. property or the church property. Mr. Clark asked the same question. Gary Hiatt interjected that the property owner is responsible for maintaining the right of way adjacent to their property.

Mr. Bond asked Mr. Clark if his father lived on the property or if he did. Mr. Clark responded that both live on the property; his father is 87 years old. Mr. Clark said he does not let his father go outside, that is why he is handling this problem. Mr. Bond asked Mr. Clark how many days he thought he would need to clean everything up and repair the fence. Mr. Clark responded it was cleaned up. Mr. Johnson asked Officer Wade to display the photo taken on July 31, 2024. Mr. Bond asked Mr. Clark if the photo was an accurate representation of what the property looks like now. Mr. Clark said yes. He also stated that he was storing the fence debris as he was replacing the panels. The other articles are things his brother has brought to the property. Mr. Bond again asked Mr. Clark how long he thought he would need to clean up and repair the fence. Mr. Clark stated about a month, that he can only work on it on weekends due to his work schedule. Mr. Johnson asked if the pick-up truck picture belonged to Mr. Clark. Mr. Clark responded the white one was his, the maroon one belonged to his father. Mr. Johnson asked if Mr. Clark could drive his father's truck, he responded yes.

Mr. Mandelkern asked about a timeline for the fence repairs. Mr. Clark responded that he had to take down the rest of the fence and haul it away first. He noted he had to dig new holes, set poles and let them settle before installing new panels.

Mr. Johnson questioned why Mr. Clark was storing the old fencing, and why he couldn't load it and the debris on the property in one of the trucks available to him and take it to the landfill on Saturday morning. Mr. Clark stated he only needed to remove the old fence, that the debris needed to be removed by his brother, it belongs to him. Mr. Clark understands that it needs to be moved, but he is trying to get his brother to remove his articles so that he can get to the things that he needs to move.

Mr. Johnson made clear that Mr. Clark's father is the property owner, and that he will be fined \$250.00 per day or \$500.00 a day. Mr. Clark understood, he had been listening. Mr. Johnson recognized the situation with the family member, but from my standpoint it is a nuisance and a dangerous situation.

Board Discussion:

Mr. Johnson stated he did not see the need for the debris to remain why the fence was being repaired. Mr. Boyer agreed, and suggested five days for the debris, and 45 days for the fence repair. Mr. Bond suggested 20 days (three Saturdays) for the debris. He noted Mr. Clark is not a young man and should be given the benefit of the doubt. His 87-year old father will be the one fined. Mr. Boyer pointed out that the more time allowed for clean-up also allows time for more items to be stored on the property. Mr. Bond noted that would be a problem from Mr. Clark to solve, to speak to the family member that is doing it, and tell them that his father is being fined by the city. Mr. Mandelkern suggested 30 days be allowed of everything. Mr. Bond agreed.

Mr. Johnson offered that no neighbors came to the hearing requesting that it had to be done immediately, I agree that 30 days would be fine.

Motion:

Mr. Johnson proposed the following motion:

From the evidence presented today, I find the property owner has been properly notified via regular and certified mail to satisfy Florida Statute 162 due process requirements. I move to find the Respondent, Willie J. Clark Sr., Compliance Board Case #PM-24-0016, owner of 820 W. Webster Avenue, Winter Park, Florida 32789 in violation of Chapter 22 Section 22-176 (adopting the International Property Maintenance Code), Section 22-177 (amending the International Property Maintenance Code), Chapter 202 Nuisance, (1), (2), (14) (b) (c), (16), and (18), Section 302.7 Dilapidated Fences, Section 302.1 Sanitation and Storage of Materials of the City of Winter Park Land Development Code.

The respondent is ordered to repair and or replace the dilapidated fence, remove unsightly, discarded articles out of the plain view from the public right of way and adjacent neighboring properties within 30 days of this hearing date. Failure to comply with this order will result in fines of up to \$250.00 per day for each day the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken by August 31, 2024.

Mr. Bond seconded the motion. The motion carried with a 7-0 vote.

6. Staff Updates

a. Code Compliance Division Manager Susanne Porras provided to the Board that Code Compliance was assisting Natural Resources and Sustainability in enforcing the code for illegal haulers. Notices of Hearing were issued for each case, however, came into compliance prior to today's hearing:

1. LDC-24-0269, 607 Ellen Dr., Winter Park, FL 32789
2. LDC-24-0270, 1100 W. Fairbanks Ave., Winter Park, FL 32789
3. LDC-24-0202, 1150 Louisiana Ave., Winter Park, FL 32789
4. LDC-24-360 Garfield Ave., Winter Park, FL 32789

Wayne Johnson requested a definition of "Illegal Hauler". Officer Porras explained that this was a container on a construction site that per city code needed to be registered. Natural Resources and Sustainability normally sends the initial Notice of Violation to the contractor and if they do not comply within the two weeks provided the case comes to Code Compliance for a Notice of Hearing to be issued.

Mr. Johnson clarified that the container was a non-registered dumpster. Ms. Porras responded yes. Mr. Mandelkern stated that he thought it meant a truck, and thanked Officer Porras for taking care of these cases and not bringing them to a hearing.

7. City Attorney Report

Deputy City Attorney Rick Geller first complimented the Board for treating the people that come before them with the utmost fairness, that it does not go unnoticed.

Mr. Geller then provided the Board an update on the foreclosure of the property located at 1260 Whitesell Dr., Winter Park, FL 32789. The Board's recommendation was accepted by the City Commission. He apologized to the Board for his voice, that COVID had finally found him after four years. As such he is a little behind, but does have a draft foreclosure in the works and hopes to have it filed soon. The city received a change by the Property Appraiser to recognize the property as non-Homestead, which will help.

Mr. Geller raised one final point. Kelly Price suggested that the Board do a site inspection of the properties that come before you. I would like to remind you that this is a quasi-judicial proceeding, and that your decisions should be based on the evidence presented at a hearing. That doesn't say that you have to close your eyes if you're driving by a property, but if you do wish to drive by a property that you disclose it, and if you observe anything that is different than what is presented by staff to please disclose it. From a due process standpoint, the Respondents must know exactly what you are basing your decisions on. Just a word of caution.

7. Board Comments

Paul Mandelkern offered that years ago when he was first appointed to this Board, we were advised not to go by and see the properties for those very reasons. Mr. Boyer and Ms. Blaney noted they remembered this as well. Mr. Geller agreed it was the better idea.

Mr. Bond asked if someone would like to return the extension cord Ms. Price left. Mr. Geller noted it actually is evidence, so the city needs to hold on to it for at least a month until the appeal period has passed.

8. Upcoming Agenda Items

9. Adjournment

Wayne Johnson made a motion to adjourn at 6:03 pm, Todd Boyer seconded.

Motion carried 7-0.

ATTEST: *Susan Pruchnicki*

Approved by the board on September 5, 2024
/s/ Susan Pruchnicki, Board Secretary

FINAL