



Code Compliance Board Regular Meeting Minutes

December 5, 2024 at 3:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

Douglas Bond, Melissa Blaney*, Tim Cordle, Carlos Diez-Arguelles, Wayne Johnson, Paul Mandelkern

*Ms. Blaney arrived late; proper notice was provided prior to the meeting.

Absent:

Steve Heller (Excused)

Legal Representative for the City:

Deputy City Attorney Richard Geller

Staff Present

Chief Building Official Gary Hiatt, Asst. Building Official Ashley Ong, Code Compliance Division Manager Susanne Porras, Code Compliance Officer Christina Busch, Code Compliance Officer Phillip Wade, Code Compliance Officer Earnest Logan, Code Compliance Officer Jeffrey Chaney, Board Secretary Susan Pruchnicki

1. Call to Order

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

- a. Roll Call
- b. Board President Wayne Johnson read the Statement of Purpose

2. Swearing in of Witnesses

Witnesses were sworn in by Board Secretary Susan Pruchnicki.

3. Consent Agenda

- a. Approve the minutes of the November 7, 2024 Regular Meeting

Board Member Doug Bond made a motion to approve the minutes as presented. Paul Mandelkern seconded. Motion passed 5-0.

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

There were no public comments.

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

a. CCB#-PM-24-0157 1000 S. Orlando Ave., Winter Park, FL 32789)

Violation Description: Defacement of the property – graffiti on the exterior half wall surface on the south side of the property. Exterior wall on the south side has a hole exposing the structure to the natural elements creating water intrusion and compromising the interior of the structure.

Codes Cited: Chapter 22, Sections 22-176 (adopting the IPMC, 2021 edition), 22-177 (amending the IPMC); Sec 302.9 Defacement of the Property, and Sec.; 304.1.1 Unsafe Condition of Exterior Structure (7) of the International Property Maintenance Code.

Compliance Requirements: Remove all graffiti to comply with city code. Seal the opening on the exterior wall to avoid further damage and water intrusion to the interior of the structure. Make repairs to the exterior walls in order to support all nominal loads. Contact the city's building department to obtain the required permits. All repairs shall be done according to current building standards and by a licensed contractor.

Code Compliance Officer Christina Busch identified herself, and presented documentation of the property location, zoning, and ownership as verified per Orange County official records. She stated that the violation was brought to the City's attention via a complaint from a resident. Notices of Violation and Hearing were issued by regular and certified mail, and posted on the property and at City Hall to meet Florida Statute Chapter 162 due process requirements.

Officer Busch presented photos and a timeline of inspections beginning September 20, 2024. Follow-up inspections were performed on October 11, 2024, and October 18, 2024. No improvements were witnessed, and the Notice of Violation was posted on the property and mailed. A follow-up inspection was conducted on October 25, 2024.

Board Member Tim Cordle interjected at this point that based on 25 years of experience, the visible damage was just the tip of the iceberg. He noted that the header above the window, because of the location of the opening, and in his estimation the header is also wood framing, that it is as rotted as the studs above it. Board member Chair Wayne Johnson thanked Mr. Cordle for his observation. Mr. Johnson stated that he understood this was Mr. Cordle's first Code Board Hearing since being appointed, and instructed Mr. Cordle that this information would be confirmed by Chief Building Inspector Gary Hiatt, who is present, and noted that any input from Board Members be held until the entire case is presented and the Board goes into discussion. Mr. Cordle offered his understanding and apologies.

Officer Busch resumed her presentation of the case. A Notice of Hearing was posted on the property and mailed on November 15, 2024. Follow-up inspections were completed on November 15, 2024, November 18, 2024, November 24, 2024, November 27, 2024, and today, December 5, 2024. Photo evidence shows that no effort to clean the graffiti or repair the damage to the building had been made during any inspection.

Paul Mandelkern asked Officer Busch if she knew if the building was occupied or vacant. She replied that to her knowledge it is vacant. Wayne Johnson asked Officer Busch if she knew how long the building had been vacant. She replied that she did not. Doug Bond asked Officer Busch if she had any contact with the owner. She responded that there was no contact information on file for the owner, and that no one had reached out to her. Mr. Johnson confirmed with Officer Busch that the city received the complaint in October; and asked if there were any prior complaints. She responded none that she knew of.

Mr. Johnson addressed Chief Building Official Gary Hiatt, asking his assessment of the damage to the wood documented in the photos. Mr. Hiatt noted that there is block construction behind the wood, however, he agrees with Mr. Cordle that the full extent of the damage is unknown, that it appeared to be long-standing. In this case if the owner applied for a permit the city would get an engineer involved to perform an assessment of all damage and the scope of work necessary to repair it.

Mr. Bond asked Mr. Hiatt if a permit was sought, how long it would take for one to be issued. Mr. Hiatt replied that he can speak on behalf of the Building Department, but not other departments. The permit would be expedited once received, and estimated that the Building Department would complete their process, either commenting on what needed to be done, or approving their part of it in approximately 10 days.

Mr. Cordle stated that he was beginning to see more stucco falling off, and that the beam above the roll-up door would likely fail. Mr. Hiatt replied that this scenario would warrant the need for an Engineer's report.

Mr. Johnson inquired if city would allow the building to be occupied given the amount of damage. Mr. Hiatt stated that without full knowledge of the extent of the damage, the building would have to be assessed. Mr. Cordle added that it appeared in the photographs that the building is 100% CMU (concrete masonry unit) walls with the wood framing only being used to attach the stucco; Mr. Hiatt agreed.

The Respondent, Mr. Anil Sant of 1110 S. W. Ivanhoe Blvd., Unit 10, Orlando, FL 32804 approached the podium and identified himself as the property owner. Mr. Sant stated that he purchased the property two years ago, and that the property is 100% vacant. He stated that he agreed with and respected the damage to the building. He offered that the reason no repairs have been made to the damaged portion is because a permit is required to remove the wood façade. He stated that there is no water intrusion, however, he understood that the appearance was not acceptable and the damaged area was unsafe.

Mr. Sant stated the challenge he has is that there are no drawings for the building, and he had a difficult time finding an architect to complete as-built drawings for the small amount of work. He recognized that he could not apply for a demolition permit without the drawings. He noted that the damaged portion of the façade is not load-bearing, and since the entire building will be remodeled it didn't make sense to remove it at the present time. Once remodeled the brick underneath will be exposed and painted; the façade will not be replaced. The graffiti would be painted over at the same time.

Mr. Sant asked the city to give him some grace, that repairs weren't as easy as "slapping on some paint, or using a hammer to knock down the façade" to be in compliance. He stated that he wanted to do things the right way, and that taking down the façade without a permit would create another violation. He offered his apologies for the length of time the project has taken, and hopes that this is not a reflection of his not being responsive due to the need for architectural drawings to proceed.

Mr. Bond asked Mr. Sant how long the graffiti had been present. Mr. Sant replied that he doesn't visit the building, and was not aware of the graffiti until he received the code compliance notice. He went to the building after the notice was delivered to view it, but determined it was not cost effective to hire someone to paint over it for cosmetic purposes when the wall where it appears would be taken down during the demolition of the damaged façade.

Mr. Cordle asked Mr. Sant if there was a public sidewalk on the damaged side of the building. Mr. Sant responded no, and reiterated that the building is vacant with no plans for occupants in the near future.

Mr. Bond asked Mr. Sant how long the hole has been in the side of the building. Mr. Sant replied he was not aware of it until he received the code compliance notices. Mr. Bond asked how long Mr. Sant anticipated it would take to obtain a permit to fix it. Mr. Sant replied that the architect hired estimated it would take approximately 10 days to prepare the as-built drawings, which would then be submitted to the city. Mr. Sant stated the challenge in completing the repairs is the approaching holidays and hiring a contractor; that being said he is looking forward to getting the repairs made in the shortest time possible.

Board Member Carlos Diez-Arguelles asked Mr. Sant if he responded to the city letters to find out what the procedures were. Mr. Sant said no, that he was working to find an architect for the necessary drawings, and stated that he owned other buildings in Orlando and that he knew what he needed to do to expedite the demolition permit for the damaged wall.

Mr. Johnson stated that in these cases the board normally establishes a time frame to obtain a permit, then confirmed with Mr. Sant that he is working to obtain one. Mr. Sant stated that he would like to find a solution that satisfies both the city and himself. He requested to be added to the agenda of the January 2025 meeting so that he can provide proof of progress to obtain as-builts, apply for a permit, and resolve the violations. Mr. Sant also requested that he appear at other future hearings to update the city on his progress, that he would like to be transparent in the process. Mr. Johnson thanked Mr. Sant and excused him from the podium.

Mr. Johnson asked Mr. Hiatt if the permit application is submitted what the timeframe would be for approval. Mr. Hiatt responded that it would be dependent on what is submitted, and reiterated that he can speak for the Building Department, noting some of the other departments will not have to review due to the nature scope of work. He stated he would expedite the permit as much as possible if he knows that the application is in the system. He believed it would take 10 days, but if additional comments were necessary due to a lack of something on the drawings, that would extend the permit issuance date.

Mr. Cordle asked Mr. Hiatt if it would be possible to issue Mr. Sant a permit that would allow him to remove the damaged façade. Mr. Hiatt said possibly, to remove anything that was a danger to the public. If it's not public-facing a sidewalk or if it is on his property that limits the damage or the possibility to insure. Mr. Cordle interjected that while that was true, then asked what if any of the plywood were solid enough to become windblown debris. Mr. Hiatt responded that it could be looked at if they submitted something of that nature or came in and had a contractor talk to the city.

Board Discussion:

Mr. Johnson referred the Board to the staff recommended motion in the case documents provided.

Mr. Bond stated that nothing has been done by the Respondent other than finding an architect, and that he doesn't fully understand the process of submitting plans, obtaining a permit, and hiring a contractor to perform the work, he doesn't know if 30 days is too little or too much, and asked for feedback from other Board Members.

Mr. Cordle offered that 30 days should be sufficient to obtain a permit, but that Mr. Sant is not wrong in stating that this is not the best time of year to find a contractor. Mr. Cordle added that at best, once the permit is issued, the repair could be completed within 90 days, unless it turns into something much more.

Mr. Johnson noted that part of the motion would be a timeframe to obtain the permit. The process starts with that, then the city will conduct regular inspections once the work is started. In this type of situation and end date should also be set for the completion of the work.

Mr. Mandelkern noted that what troubles him is that the violations were originally identified in October and the property posted, but to date the respondent is still waiting for architectural drawings, and has done nothing about the graffiti. As such, he didn't think the board should be lenient. Mr. Bond added that he was not impressed with that progress, or with not having someone paint over the graffiti, that it would not take very long.

Deputy City Attorney Rick Geller reminded the Board that they can modify the recommended motion to set a different deadline for painting over the graffiti.

Mr. Mandelkern noted that there were three things involved: removing the graffiti, sealing the opening of the exterior wall, and making repairs to the exterior wall, which the architectural drawings are needed for. Mr. Mandelkern asked Mr. Hiatt if a permit was required to seal the opening. Mr. Hiatt responded that if the respondent contacted him via email explaining what they would do he would respond so they have it in writing, but it would have to be uncovered again if the architect hasn't assessed it totally.

Mr. Cordle noted that one of the issues with trying to cover the opening is that there is nothing to nail to anymore. He added that trying to use plywood and caulk would not work because there is nothing to attach it to. Mr. Hiatt said it would be best to add the repairs to the permit versus trying to make a temporary provision that may or may not work. He noted that sealing the hole would require more than just throwing something on it.

Mr. Cordle agreed with the fact that the owner did not respond in a timely fashion, show good faith in his opinion, in getting the violations rectified.

Mr. Johnson asked for input on a timeframe for the permit. Mr. Cordle responded one month.

Motion:

Wayne Johnson proposed the following motion:

From the evidence presented today, I move to find the Respondents, 1000 S. ORLANDO AVE., LLC., Compliance Board Case #PM-24-0157, owner of 1000 S. Orlando Avenue, Winter Park, FL 32789 in violation of Chapter 22, Sections 22-176 (adopting the IPMC, 2021 edition), 22-177 (amending the IPMC); Sec 302.9 Defacement of the Property, and Sec. 304.1.1 Unsafe Condition of Exterior Structure (7) of the International Property Maintenance Code.

The Respondent has been properly notified per regular and certified mail and posting to satisfy Florida Statutes chapter 162 and City Code section 2-109 due process requirements.

The Respondent is ordered to remove all graffiti to comply with city code within 10 days of today's hearing date. The Respondent is required to apply for a permit within 30 days of today's hearing date to seal the opening on the exterior wall to avoid further damage and water intrusion to the interior of the structure, and make repairs to the exterior walls in order to support all nominal loads. 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 within 30 days.

Mr. Johnson noted that he needed to amend the motion made, and re-opened the Board Discussion. First, he confirmed with Deputy Assistant City Attorney Rick Geller if \$250 is the minimum fine and \$500 is the maximum fine per day. Mr. Geller replied that \$250 was the maximum for this hearing, that \$500 would be the maximum for a repeat violation. Mr. Johnson also confirmed with Mr. Geller that the fines were per day and per violation.

Amended Motion:

Wayne Johnson made the following Amended Motion:

From the evidence presented today, I move to find the Respondents, 1000 S. ORLANDO AVE., LLC., Compliance Board Case #PM-24-0157, owner of 1000 S. Orlando Avenue, Winter Park, FL 32789 in violation of Chapter 22, Sections 22-176 (adopting the IPMC, 2021 edition), 22-177 (amending the IPMC); Sec 302.9 Defacement of the Property, and Sec. 304.1.1 Unsafe Condition of Exterior Structure (7) of the International Property Maintenance Code.

The Respondent has been properly notified per regular and certified mail and posting to satisfy Florida Statutes chapter 162 and City Code section 2-109 due process requirements.

The Respondent is ordered to remove all graffiti to comply with city code within 10 days of today's hearing date. The Respondent is required to apply for a permit within 30 days of today's hearing date to seal the opening on the exterior wall to avoid further damage and water intrusion to the interior of the structure, and make repairs to the exterior walls in order to support all nominal loads. Failure to comply with this order will result in fines of up to \$250.00 per day per violation for each day the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken regarding the graffiti within 10 days of this hearing date, and regarding the permit within 30 days of this hearing date.

Mr. Mandelkern seconded the motion, but reopened discussion noting that the motion does not include a time limit on completing the repairs, just getting a permit. He stated that was troubling, and asked Mr. Hiatt once a permit was issued how much time was allotted. Mr. Hiatt stated that the permit allowed for six months to begin construction. Mr. Mandelkern confirmed with Mr. Hiatt that if no time limit is included in the board order that gives the Respondent six months to finish repairs; Mr. Hiatt said no, to begin repairs.

Mr. Cordle suggested that the Respondent have the repairs completed in six months, noting that the opening should be sealed before the next hurricane season begins. Mr. Hiatt responded that the timeframe for completion is up to the Board to determine, that it is not up to him, he follows the Florida Building Codes and Statutes.

Mr. Bond questioned Mr. Cordle if his suggested time frame would be in violation of the Florida Building Code. Mr. Geller interjected that it was the city's position that the provisions for permitting can be handled separately from other provisions of the city code. As such he believed the board could place more restrictive conditions on getting something done, especially with the nuisance that is created. Mr. Cordle then stated that fines and that type of thing fall to the purview of the Building Authority, outside of the Building Code. Mr. Geller asked Mr. Cordle if he was asking a question; Mr. Cordle responded no, he was just reiterating what Mr. Geller was saying. He went on to say that the Board is free, within reason, to set the fine per day. Mr. Geller reminded the Board that the violations in this case were of the International Property Maintenance Code, not the Building Code, they are two different volumes.

Mr. Johnson acknowledged that Mr. Mandelkern was correct in that past cases the motion included different timeframes to rectify different violations.

Wayne Johnson proposed a second Amended Motion:

From the evidence presented today, I move to find the Respondents, 1000 S. ORLANDO AVE., LLC., Compliance Board Case #PM-24-0157, owner of 1000 S. Orlando Avenue, Winter Park, FL 32789 in violation of Chapter 22, Sections 22-176 (adopting the IPMC, 2021 edition), 22-177 (amending the IPMC); Sec 302.9 Defacement of the Property, and Sec. 304.1.1 Unsafe Condition of Exterior Structure (7) of the International Property Maintenance Code.

The Respondent has been properly notified per regular and certified mail and posting to satisfy Florida Statutes chapter 162 and City Code section 2-109 due process requirements.

The Respondent is ordered to remove all graffiti to comply with city code within 10 days of this hearing date. The Respondent is ordered to seal the opening on the exterior wall to avoid further damage and water intrusion to the interior of the structure, and make repairs to the exterior walls in order to support all nominal loads within 60 days of this hearing date. The Respondent shall apply for a permit for additional work within 30 days, but this does not affect the Respondents requirements to make the corrections as noted above.

Failure to comply with this order will result in fines of up to \$250.00 per day per violation for each day the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken regarding the graffiti within 10 days of this hearing date, and regarding the repairs made within 60 days of this hearing date.

Mr. Mandelkern questioned the "up to \$250" wording, meaning the fine could be less. Mr. Geller reminded that actual fines are not set until a Massey Hearing.

Mr. Johnson noted that Mr. Geller stated the fines would be determined by this board. He asked the board if there were any additional corrections to the motion. Mr. Geller questioned that the motion did not include a timeframe for the repair of the opening. Mr. Johnson said that 60 days was provided. Mr. Hiatt noted that due to the holidays it would be difficult to complete the work in a 60-day time period, but did agree that a timeframe should be set. He stated that the city does not want to go into hurricane season or want the violation prolonged. Mr. Cordle suggested a minimum period of 90 days, if the respondent passes all inspections.

Wayne Johnson proposed a third Amended Motion:

From the evidence presented today, I move to find the Respondent, 1000 S. ORLANDO AVE., LLC., Compliance Board Case #PM-24-0157, owner of 1000 S. Orlando Avenue, Winter Park, FL 32789 in violation of Chapter 22, Sections 22-176 (adopting the IPMC, 2021 edition), 22-177 (amending the IPMC); Sec 302.9 Defacement of the Property, and Sec. 304.1.1 Unsafe Condition of Exterior Structure (7) of the International Property Maintenance Code.

The Respondent has been properly notified per regular and certified mail and posting to satisfy Florida Statutes chapter 162 and City Code section 2-109 due process requirements.

The Respondent is ordered to remove all graffiti to comply with city code within 10 days of this hearing date. The Respondent is ordered to seal the opening on the exterior wall to avoid further damage and water intrusion to the interior of the structure, and make repairs to the exterior walls in order to support all nominal loads within 90 days of this hearing date. The Respondent shall apply for a permit for additional work, but this does not affect the Respondents requirements to make the corrections as noted above.

Failure to comply with this order will result in fines of up to \$250.00 per day per violation for each day the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken regarding the graffiti within 10 days of this hearing date, and within 90 days of this hearing date for repairs to the exterior wall as noted above.

Mr. Mandelkern seconded the amended motion. Motion carried 5-0.

At this time, Mr. Johnson noted for the record that Board Member Melissa Blaney, who arrived at 3:25 PM, is now present and joining the meeting.

b. CCB# - PM-24-0085 930 Cypress Ave., Winter Park, FL 32789 – MASSEY HEARING

Violation Description: Accumulation of waste and building materials on the premises in plain view from the public right of way and adjacent neighboring properties located on the front lawn and carport of the property. Open storage of materials such as a satellite dish, plastic buckets, concrete blocks, articles of wood, a vehicle tire, a vehicle battery, a metal cabinet, a discarded bike, discarded tarps, and discarded articles of waste. Hard water staining on the front exterior wall of the property and mold and mildew staining on the awning above the front door on the property.

Codes Cited: Chapter 22, Sections 22-176 (adopting the IPMC, 2021 edition), 22-177 (amending the IPMC), 302.1 Sanitation and Storage, and 304.2 Protective Treatment of Materials of the International Property Maintenance Code.

Compliance Requirements: Remove the accumulation of waste and building materials from the plain view from the public right of way and adjacent neighboring properties. Remove the stains from the front exterior wall and the awning and apply protective treatment. The premises shall be maintained in a clean, safe and sanitary condition.

Code Compliance Officer Christina Busch identified herself. She stated that she is bringing this case to the board for a Massey Hearing. The case was originally brought before the Board at the September meeting. Officer Busch identified the property owners at that time as Tyrell Harris, Jr. and Tyrell Harris, Sr; the property ownership was changed to ATyrell Enterprises, LLC, the family business. Officer Busch then presented documentation of the property location, zoning, and ownership as verified per Orange County official records. She also provided documentation from SUNBIZ confirming the Registered Agent and Title Manager for the business is Tyrell Harris, Jr., with a mailing address of 930 Cypress Ave., Winter Park, FL 32789.

Officer Busch presented the Board with an Affidavit of Non-Compliance for the case PM-24-0085, address 930 Cypress Ave., Winter Park, FL 32789 which was presented on September 5, 2024. The property owner, Tyrell Harris Jr. was found in violation and was ordered to remove the accumulation of waste and building materials from plain view of the right of way and neighboring properties, and to remove the stains from the front exterior wall and awning wood structure over and in front of the property's front door and apply protective treatment within 30 days of the hearing date.

Failure to comply with the order would result in fines of up to \$250 per day, per violation for each day the violation continues. The Respondent was further ordered to contact the Safety & Code Compliance Officer and provide documentation of action taken to bring the property into compliance by October 5, 2024.

Officer Busch stated she performed follow-up inspections on October 7, 2024, October 21, 2024, November 7, 2024, November 15, 2024, November 22, 2024, November 27, 2024, and December 5, 2024. The city gave proper notice of this hearing to the Respondent by posting the Notice of Hearing on the property on November 15, 2024, and at City Hall, and by regular and certified mail to meet Florida Statute chapter 162 due process requirements.

Officer Busch presented photos taken during her follow-up inspections listed above, all showing no changes to the condition of the property.

Mr. Bond asked Officer Busch if there had been any contact with the property owner. Officer Busch stated no. Ms. Blaney confirmed with Officer Busch that the property owner had received the notice via certified mail. Officer Busch responded yes, confirmation of delivery to an individual on the property was provided by the United States Postal Service. Mr. Cordle confirmed with Officer Busch that absolutely nothing has changed about the condition of the property.

Mr. Geller offered the Board clarification on the ownership of the property. The defense, if you will recall, was "you didn't notify the owner". During the hearing on September 5, 2024, Officer Porras checked the Orange County Property Appraiser's website. The site displayed that Tyrell Harris, Jr. and Tyrell Harris, Sr. owned the property. Mr. Geller offered what is known since that time. There is a copy of a quit claim deed in the packet provided where Tyrell Harris Jr. and Tyrell Harris Sr. Quit Claimed the property to ATyrell Enterprises, LLC. The supposed date of the Quit Claim deed is June 12, 2024. However, if you look in the upper right-hand corner you will see it was recorded on September 5, 2024, the exact same day as our hearing. Of course, it had not been registered yet, nor could it be viewed on the website. Mr. Mandelkern noted it was not a coincidence; Mr. Geller agreed.

Ms. Blaney asked Mr. Geller about the tax information on the page before the Quit Claim deed showing payment of 2023 taxes being paid by ATyrell Enterprises LLC. and the corporation was also listed as the owner. She found that curious. Mr. Mandelkern noted that was shown, but the deed had not been recorded yet. Mr. Geller agreed. Mr. Mandelkern then asked Mr. Geller about the original order, issued on September 5, 2024, to Respondents Tyrell Harris Jr. and Tyrell Harris Sr.; and for this Massey Hearing the Respondent is ATyrell Enterprises, LLC. The information provided to the Board indicates the prior owner had a duty to the previous owner to provide information about the code violations.

Mr. Mandelkern wanted to make the record correct, in that the Massey Hearing is correct, that the Respondent is the new owner. Mr. Geller responded that the Respondents are all three, because the occupants and owners all must comply with the code and some of the Florida Statutes as well. Mr. Mandelkern pointed out that the recommended motion does not reflect this, it only lists ATyrell Enterprises, LLC. Mr. Geller noted that he had not seen the recommended motion until now. He recommended to make the order applicable to all three, to the occupants and to the owner. He also stated that where notifying the new owner, presumably they did tell themselves, that they conveyed the property to a wholly owned entity that they themselves own and control. In the Notice of Hearing, I specifically asked that this be included, it says in code compliance all owners and occupants of a property, quoted the International Property Maintenance Code, stating that. The city also pointed out in the Notice of this Massey Hearing, that Respondents Tyrell Harris, Jr. and Tyrell Harris, Sr. had a duty under Florida Statute chapter 162.06 and 2.104 of the City codes to before the prior hearing to advise the acquiring entity, ATyrell Enterprises, LLC, of the Notice of Violation. They also have a continuing duty to advise the new entity of the Code Board's Finding of Facts, Conclusion of Law, and Order. They had duty to file a notice with the Code Compliance Official of the transfer of the property, with the identity and address of the new owner, and copies of the disclosures made to the new owner within five days after the date of transfer. The city code officials never received such notice. In the code, the failure to do that is a rebuttable presumption of fraud. Mr. Geller noted he is not willing to make that allegation today, but the new/acquiring entity has had sufficient notice, from the time of receiving the Notice of Massey Hearing to today to clean up the junk. He noted if they had spent a fraction of the effort doing the deed and all the machinations, had devoted the energy to cleaning up the property, they would be in a much better position. Mr. Mandelkern thanked Mr. Geller for his detailed response in establishing a chain of ownership.

Ms. Blaney asked Mr. Geller about the Quit Claim deed, noting there being a "first party" and a "co-claim party". She asked if someone representing ATyrell Enterprises would have to sign it, acknowledging ownership of the property. Mr. Geller said not necessarily, and though he is not a real estate attorney believes that deeds need to be signed by the current owner, transferring to the new owner. Mr. Mandelkern stated that is correct, that the grantee does not sign the deed.

Ms. Blaney asked if her understanding is that the Registered Agent is not legally responsible for the corporation was correct. Mr. Geller and Mr. Mandelkern responded that the registered agent is responsible for receiving notices, and in this case, they would notify themselves. Ms. Blaney was trying to understand that when the notice was received, that Mr. Harris Jr. and the LLC were both responsible. Mr. Geller responded legally, yes.

Mr. Mandelkern noted there are two issues for the Massey Hearing: who got proper notice, and who is the proper party for the Massey notice. He believed this was now established. Mr. Geller responded yes, that all three parties are responsible. He noted that the whole purpose of giving notice to one who acquires property is that they are buying the problem, and acquiring the code enforcement issue, and are responsible for getting it remedied after the acquisition. Mr. Mandelkern then asked about the recommended motion only including the LLC. Mr. Geller responded that this should be changed to include all three parties, and can add that the LLC has assumed responsibility for correcting the violations.

Ms. Blaney asked if an LLC is required to have a business license in the city. Mr. Geller responded that there is no knowledge of business being conducted in the city; it may be a passive LLC. He noted a license might be required if the LLC has a portfolio of managed properties and actively conducting business. Ms. Blaney asked if just existing with this business address. Mr. Geller said no; Mr. Mandelkern added that owns a piece of property does not require a license. Mr. Geller said a license is only required to conduct business.

Mr. Johnson asked Officer Busch to check the lobby area outside of Chambers to see if the Respondent was waiting there. Officer Busch found no one waiting. Mr. Johnson made note for the record that the halls were checked at 4:17 PM and no one appeared on behalf of the Respondent.

Board Discussion:

Ms. Blaney offered that the decision seemed straight forward. Mr. Johnson confirmed with Mr. Mandelkern that he made the necessary corrections to the recommended motion, and asked if he would make a motion for consideration.

Motion:

Paul Mandelkern suggested the following motion:

From the evidence presented today, I move to issue an Order finding the Respondents, Tyrell Harris, Jr. and Tyrell Harris, Sr., occupants, and ATYRELL ENTERPRISES, LLC., owner of 930 Cypress Avenue, Winter Park, Florida 32789 (the "Subject Property"), in violation of the Order issued by the City's Code Compliance Board, dated September 5, 2024.

The Respondents have been properly notified per regular and certified mail and posting to satisfy Florida Statutes chapter 162 and City Code section 2-109 due process requirements.

On September 5, 2024, this Board ordered Respondents Tyrell Harris Jr. and Tyrell Harris Sr. to either: (1) Remove the accumulation of waste and building materials from plain view of the right of way and neighboring properties; and (2) Remove the stains from the front exterior wall and the awning wood structure in front of, and on top of the Subject Property's front door, and apply protective treatment within 30 days of this hearing date. The acquiring entity, Atyrell Enterprises, LLC., assumed responsibility of remedying the code violations together with the occupants.

As of the date of today's hearing, December 5th, 2024, the Board finds by a preponderance of the evidence:

- (1) The Respondents have not removed the accumulation of waste and building materials from plain view of the right or way and neighboring properties; and
- (2) The Respondents have not removed the stains from the front exterior wall and the awning wood structure in front of, and on top of the Subject Property's front door, and applied protective treatment within the 30-day requirement.

In accordance with the requirements of *Massey v. Charlotte County*, 842 So. 2d 142 (Fla. 2d DCA 2003), the board hereby assesses a fine against Respondents in the sum of \$250.00 per day, per violation running from October 5, 2024, 30 days from September 5, 2024. In determining the amount of the fine, in accordance with Section 2-107 of the City Code and Florida Statutes § 162.09, the Board considered the gravity of the violations, any actions taken by the violators to correct the violation[s]; and any previous violations committed by the violators.

The lien recorded in connection with this order shall constitute a lien against any real or personal property owned by the violators.

Mr. Johnson seconded the motion. Mr. Cordle asked about the fines running from October 5, 2024 to December 5, 2024. Mr. Geller responded that the fine will begin as of October 5, 2024, and run until the violations are corrected. **Motion passed 6-0.**

5. Non-Action Items

None

6. Staff Updates

Officer Porras offered that the following cases, previously noticed and scheduled for this meeting, have come into compliance:

- a. CCB# - LDC-24-0172 151 N. Orlando Ave., Unit 118, Winter Park, FL 32789 (Short-Term Rental)
- b. CCB# - LDC-24-0366 1030 Early Ave., Winter Park, FL 32789 (Zoning – Land Development Code), a boat and trailer stored in the driveway.

Building Official Gary Hiatt provided an update to the Board on the property located at 1260 Whitesell Dr., Winter Park, FL 32789. Mr. Hiatt reminded the board that 1260 Whitesell Dr. was a long-standing case, before even his employment with the city. The City came before the Board with a recommendation of foreclosure of the property. This went before the City Commission; they authorized us to proceed. The attorneys were in the process of foreclosure when Mr. Moore surfaced. Mr. Moore met with city staff, wrote a check for \$114,000.00 +because it was our stance that we were going to proceed with foreclosure proceedings unless he paid the fines. Mr. Moore will appear before the City Commission, asking for a reduction in fines next week. We will compose a staff recommendation to try and recover all of our costs and expenses, and reiterate to the Commission that we don't want people to get the feeling that they can come to them, and let properties be out of compliance for 903 days, and then ask for forgiveness to get the reduction. That does not establish a good message to the rest of the community, that they too are able to do that. We anticipate this to be on the City Commission agenda for next Wednesday.

Mr. Johnson asked if the \$114,000 plus was what was due the city, or was it only a partial payment. Mr. Hiatt responded this is what was due with the exception of the attorney fees, because even as we sat in the meeting with Mr. Moore we were receiving e-mails from the attorneys. The attorney fees had not been established; this is the final piece for our agenda item. That will also be taken into consideration for any fees that were paid over and above hard costs, that we recover those fees as well.

7. City Attorney Reports

Mr. Geller had no report to the Board for this meeting

8. Board Comments:

None

9. Upcoming Agenda Items

Officer Porras responded that the city would be bringing back the Massey Hearing for 820 W. Webster Ave., Winter Park, FL 32789, where some of the board members had questions about the property boundaries. We could not bring the case today; we needed to re-send all the notices to the Respondent so that we can provide due process. Mr. Johnson confirmed that this was the case postponed at the November meeting.

10. Adjournment

Doug Bond made a motion to Adjourn at 4:29 PM. Seconded by Paul Mandelkern.

Motion passed 6-0.

ATTEST:

Approved by the board on February 6, 2025

Susan Pruchnicki

/s/ Susan Pruchnicki, Board Secretary