

# **MINUTES**

## **CITY OF KEY COLONY BEACH CODE ENFORCEMENT BOARD**

Wednesday, February 8, 2023 – 9:39 a.m.  
City Hall Annex & virtually via Zoom Conferencing

**1. Call to Order, Pledge of Allegiance, and Roll Call:** *The meeting was called to order by Chair John Dalton at 9:39 am followed by the Pledge of Allegiance and Rollcall. **Present:** Larry Mills, Kimmeron Lisle, John Dalton, Doug Cuje, Pete Diez. **Also present:** City Administrator Dave Turner, City Clerk Silvia Gransee, Code Enforcement Officer Barry Goldman, City Attorney Ryan Benninger, Code Board Attorney James Dorl, City Attorney Janette Smith (virtual).*

**Public Attendance:** 12

**Virtual:** 13

**2. Approval of Minutes – None.**

**3. Swearing in of Witnesses to Testify:** *City Administrator Dave Turner swore in the witnesses for the hearing.*

**4. Notice of Ex-Parte Communication:** *Board Member Kimmeron Lisle stated ex-Parte communication to the Board regarding agenda item No. 5 A and recused herself from the discussion and vote. Form 8B is attached to the minutes for the record.*

**5. City Attorney Ryan Benninger advised the Board that the second matter under Item 5 B will be continued next month.**

*City Attorney Ryan Benninger further asked for Item 5 A to be last and Item 5D to be first on the agenda. The Board had no objections.*

*City Attorney Benninger asked for a 5-minute recess which was extended by an additional 10 minutes.*

### **A. (D) Property Address: 241 5th Street – Violation: Vacation Rental without a License**

*City Attorney Benninger asked the respondent to stipulate to the violation.*

*Code Enforcement Officer Barry Goldman explained the details on the stipulation.*

*Kimmeron Lisle asked for clarification on the \$15,000.00 cap for rental violations. Code Officer Goldman explained the reasoning behind the cap and answered questions from the Board. Discussion followed on what amount of fines can be issued, and differences in the notice of violations compared to the fee schedules. Code Board Attorney James Dorl gave further explanations to the Board and what options the Board has in levying fines. Code Officer Goldman continued explaining the fee schedule, and the procedures on the issuance and suspensions of rental licenses. Code Officer Goldman gave further details on what qualifies to no rental activity without a license.*

*City Attorney Benninger asked for the discussion to be tabled and stated the case at hand. The respondent agreed with City Attorney Benninger's statement.*

*City Attorney Benninger asked the Board to accept the party's stipulation.*

**MOTION:** Motion made John Dalton, seconded by Larry Mills, to accept the City's offer.

**DISCUSSION:** Discussion followed if a statement by the respondent was needed. City Clerk Gransee reminded of the correct proceedings regarding motions.

**ON THE MOTION:** Withdrawn.

**MOTION:** Motion made by Doug Cuje, seconded by Pete Diez, to agree that there is a violation of renting without a license, and the fines will be capped at \$15,000.00, and the cost of prosecution.

**DISCUSSION:** Discussion followed on the correct wording on the motion.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

Code Board Attorney Dorl asked the Board for Dr. Morelli to testify on the occurrence of the violation. The Board agreed.

The respondent, Dr. Morelli, testified that a violation occurred and gave testimony on his recollection of events. Discussion followed on the testimony that was given. Code Officer Barry Goldman explained the history of violation. Dr. Morelli gave further testimony on past and current experiences with City staff, prior employment experiences, and how many years he has lived in Marathon, Dr. Morelli continued his testimony on renting without a license and how much income he made during that time. The Board asked Dr. Morelli what he is asking for. The respondent asked the Board for a reduced fine.

City Attorney Ryan Benninger explained the agreed upon stipulation to the Board. The respondent confirmed that he is asking for a mitigated amount of \$6,000.00 to pay in fines. Code Board Attorney Dorl explained the terms of the stipulation to the Board.

**MOTION:** Motion made by Larry Mills, seconded by Pete Diez, to accept the \$6,000.00 fine.

**Discussion:** Discussion ensued on the amount of the fine, and length of violation, maximum fine, and how many rentals without a license occurred, and how the cap was configured.

**ON THE MOTION:** Larry Mills amended his motion to include the cost of prosecution in the amount of \$2,254.27 in addition to the \$6,000.00. Kimmeron Lisle seconded the motion.

**FURTHER DISCUSSION:** None.

**ON THE MOTION:** Rollcall vote. Unanimous approval. The motion passed.

**B. Property Address: 39 Sadowski Causeway – Violation: Construction Activity without a Permit:** The matter was continued until the next hearing on March 8<sup>th</sup>, 2023.

**C. Property Address: 351 10<sup>th</sup> Street – Violation: Vacation Rental without a License**

City Attorney Ryan Benninger stated to the Board that the respondent is present and ready to enter into stipulation agreement. Ms. Pardo stipulated to renting without a license and to agree to the stipulation of violation with the City.

Code Officer Goldman explained the stipulation process to the Board and stated that the waiver of appeal is part of the stipulation agreement.

Chair John Dalton asked for a motion.

**MOTION:** Motion made by Kimmeron Lisle, seconded by Doug Cuje, to accept the stipulation agreement with a cap of \$15,000.00.

**DISCUSSION:** None.

**ON THE MOTION:** Rollcall vote. Unanimous approval.

*Code Board Attorney Dorl advised the Board to proceed to mitigation.*

*Ms. Pardo gave testimony on the case and her recollection of events. Ms. Pardo testified on her current and past license status, length of renting without a license, and prior notice on renting without a license. Code Officer Goldman gave additional testimony on the case. Ms. Pardo gave testimony on current income from renting without a license and time frame involved.*

**MOTION:** *Motion made by Kimmeron Lisle, seconded by Doug Cuje, to keep the fine at the \$15,000.00, plus the cost of prosecution in the amount of \$2,254.27, in addition to the waiver to appeal.*

**DISCUSSION:** *None.*

**ON THE MOTION:** *Rollcall vote. Pete Diez – Yes. Larry Mills – No. Kimmeron Lisle – Yes. Doug Cuje – Yes. John Dalton – Yes. The motion passed.*

*City Attorney Benninger asked for a 10-minute recess. The Chair agreed.*

*The hearing continued after recess.*

**D. (A) Property Address: 200 8<sup>th</sup> Street, Unit 1 – Violation: Rental without a license.**

*City Attorney Benninger presented the case to the City and asked for the respondent to be sworn in. City Administrator Turner swore in the witness.*

*City Attorney Benninger stated to the Board that the parties have come to an agreement to renting without a license. City Attorney Benninger stated that Attorney Patrick Stevens, is acting on behalf of the property owner and will be assisting the respondent.*

*Attorney Patrick Stevens stated that the respondent will agree to the stipulation agreement with a cap of \$15,000.00 and the ability to mitigate and enter into admission of violation.*

*Attorney Stevens asked for Kimmeron Lisle to step down from the dais. Code Board Attorney Dorl stated that Kimmeron Lisle has recused herself from the discussion and vote. Kimmeron Lisle agreed.*

*Code Officer Goldman reiterated the stipulation agreement with a cap of \$15,000.00 with waiver of appeal, and the cost of prosecution in the amount of \$3,104.47.*

*Chair Dalton asked for a motion.*

**Motion:** *Motion made by Pete Diez, seconded by Doug Cuje, to accept the stipulation agreement for a fine up to \$15,000.00, cost of prosecution in the amount of \$3,104.47, and waiver to appeal with the admission of guilt.*

**DISCUSSION:** *None.*

**ON THE MOTION:** *Rollcall vote. Unanimous approval.*

*Chair John Dalton asked if the respondent agrees to the stipulation on admitting to the violation of renting without a license. Attorney Stevens explained the question to the respondent who answered yes.*

*Code Board Attorney Dorl asked to start with the mitigation.*

*Attorney Stevens gave history on the case as recalled by the respondent and the sequence of events leading up to violation. Attorney Patrick Stevens gave his thoughts on the case and asked the board for their sympathy and a minimal fine plus the cost of prosecution.*

*Officer Goldman explained the rules on business licenses as defined by the City's Code of Ordinances.*

*Attorney Patrick Stevens gave his interpretation of the code and rules.*

*City Attorney Benninger objected to Attorney Stevens testimony as misconstruing the violations.*

*Code Board Attorney Dorl explained to the Board that there is disagreement between the City and Attorney Stevens on interpretations. City Attorney Benninger stated that testimony goes beyond mitigation. Attorney Stevens explained his point.*

*City Attorney Janette Smith explained the Code of Ordinances to the Board, and differences in short- and long-term rentals. City Attorney Smith confirmed that a license is required for any rental. Code Officer Goldman gave additional input. Further discussion followed on the nature of the violation, days of violation, and total cost.*

*Discussion continued on the question if City Attorney Smith has to be sworn in as a witness acting as council for the City.*

*The parties agreed that City Attorney Smith does not need to be sworn in.*

*Code Officer Goldman asked if the Boards questions were answered and explained the daily fines that would have occurred without the cap of \$15,000.00. Attorney Patrick Stevens asked for leniency based on the facts that were presented.*

*Further testimony was given by Mr. Stevens on inspections and whether they were done.*

***MOTION:*** *Motion made by Doug Cuje to pass a fine of \$15,000.00 plus the cost of prosecution in the amount of \$3,104.47. There was no second.*

***ON THE MOTION:*** *The motion failed.*

***MOTION:*** *Motion made by Larry Mills, seconded by Pete Diez, to place a fine of cost for permits and the cost of prosecution in the amount of \$3,04.47.*

***DISCUSSION:*** *The cost of permits and inspections was clarified as costs already paid by the respondent. Discussion followed on whether to withdraw or amend the motion.*

***ON THE MOTION:*** *Withdrawn.*

***MOTION:*** *Motion made by Larry Mills, seconded by Doug Cuje, to place a fine of only the cost of prosecution in the amount of \$3,104.47.*

***DISCUSSION:*** *None.*

***ON THE MOTION:*** *Rollcall vote. Larry Mills – Yes. Doug Cuje – No. Pete Diez – Yes. John Dalton – No. The motion tied.*

*Chair John Dalton asked for a brief recess.*

*The hearing continued.*

*City Attorney Benninger stated that an amicable resolution was agreed upon the stipulated agreement in the amount of \$5,500.00 including the cost of prosecution and waiver of appeal. Attorney Stevens confirmed the terms.*

***MOTION:*** *Motion made by Pete Diez, seconded by Larry Mills, to agree to the parties agreement on the fine in the amount of \$5,500.00 which includes the cost of prosecution and waiver to appeal.*

***DISCUSSION:*** *None.*

***ON THE MOTION:*** *Rollcall vote. Doug Cuje – No. Pete Diez – Yes. Larry Mills – Yes. John Dalton – Yes. The motion passed.*

6. *Updates – None*
7. *Discussion Items – None*
8. *Adjournment: The meeting adjourned at 12:05 p.m.*

*Respectfully submitted,*  
*Silvia Gransee*  
*City Clerk*

**ADOPTED: March 8, 2023**  
*Silvia Gransee*  
*City Clerk*