

Meeting: Zoom Code Compliance Hearing

Date: Tuesday, October 10, 2023

Location: Islamorada, Village of Islands Administration Center, Third Floor

In Attendance : Michael Pawelczyk - Hearing Officer  
Jose Arango – Village Attorney – Weiss Serota  
Carlota de la Sierra – Senior Code Compliance Officer  
Gerardo Gonzalez - Code Compliance Officer  
Jennifer DeBoisbriand – Director of Planning  
Anita Muxo – Recording Secretary  
Russ Yagel, Esq.  
Mary Barley (Mary Barley Family Trust, 11 De Leon Street)  
Ty Harris, Esq.  
Joanne Pereira, Esq.  
Fred Schmid

Call To Order: 2:07 PM

Hearing Officer Michael Pawelczyk briefly reviewed some of the hearing procedures.

At 1:21 minutes into the hearing, Senior Code Enforcement Officer Carlota de la Sierra indicated that Item 3 (Case No. CERENT2023000214) and Item 4 (CERENT20230000215) are in compliance.

Attorney Russ Yagel filed a motion to abate the Mary Barley case. At 3:24 minutes into the recording Russ Yagel presented that motion. Mr. Yagel asked that the Hearing Officer consider this code enforcement action until after it is heard in the Circuit Court. Village Attorney Jose Arango stated he would like the Village to present their case prior to considering the motion to abate. The Hearing Officer concurred.

Case No. CEBDG20230000134 – Mary Barley Family Trust 1/10/1996 – 11 De Leon Street

At 8:38 minutes into the Hearing, Senior Code Compliance Officer Carlota de la Sierra presents on Thursday, March 16, 2023 an unpermitted propane tank, pavers and landscaping constructed and installed on Village ROW was documented at this location pursuant to a request for investigation by Village Manager. A courtesy letter was issued and sent certified mail/return receipt on April 20, 2023 with corrective action to be taken and a compliance date of May 1, 2023. A Notice of Violation was issued and sent certified mail/return receipt on May 4, 2023. Violations: Section 6-61(a) of the Village Code entitled "Work requiring building permit"

Corrective Action:

Apply for and obtain an After-the-Fact (ATF) Right-of-Way Building Permit for installation of propane tank and pavers on Village Right-of-Way (or apply for and obtain a Building Permit for demolition and removal of unpermitted propane tank and pavers on Village Right-of-Way), request and pass required inspections to finalize permit and close the code case. Section 50-24(a) of the Village Code entitled "Permit required" which provides that a Village rights-of-way permit shall be required for all landscaping, construction or maintenance activity within the Village Right-of-Way request and pass required inspections to finalize permit and close out code case. A Notice of Hearing was sent August 28, 2023 - Posting Notice and Affidavit of Posting were completed same day. To date, no permit application has been submitted.

Mr. Yagel and Mr. Arango asked questions of Ms. de la Sierra. Mr. Yagel then asked questions of Mary Barley, the property owner. Ms. Barley indicated that the propane tank was installed when the renovations to her home were completed. Ms. Barley believes that the LP tank was inspected when the renovations to the house were completed and a part of the renovations.

The Hearing Officer stated he is not going to make a determination today and will continue until next month. Mr. Pawelczyk is going to give time to both parties to look for further information. At the next meeting, will reconsider the motion to abate.

At 38:23 minutes into the recording Case No. CERENT20230000117-124 – 74560 Overseas Highway, 74560 SBH began. Ty Harris, Attorney for 74560 SBH presented a recap of where the code enforcement cases stood. Mr. Harris filed a motion to dismiss due to the ads being insufficient proof of the properties being rented.

The Hearing Officer asked if notice was provided to the Property Owner allowing them time to correct the ads prior to receiving a civil citation. The section of the Florida Statutes relating to this was read.

Discussion of the Florida Statutes and Code of Ordinances ensued. The Hearing Officer dismissed cases CERENT20230000117-124.

At 1:05 hours into the recording Joanne Pereira, Esq. presented on behalf of Darcy Parker and Frederick Schmid Jr. Case No. CEBDG20220000040 began.

Senior Code Enforcement Officer Carlota de la Sierra presents on April 18, 2023, an Order Imposing Civil Penalties Upon Default was issued pursuant to Hearing Officer's Findings of Facts, Conclusion of Law, and Order affirming Code Compliance Officer's decision and finding Violators to be in violation of Section 6-61(a) of the Village Code entitled "work requiring building permit". Order was signed May 1, 2023 and recorded on May 9, 2023.

The ordered Compliance date to be on or before one hundred eighty (180) days from the date of signed Order - October 28, 2023 to submit variance application and permit

issuance. If variance is not approved, then obtain a demolition permit and perform the corrective work and Administrative Fee of \$125.00 to be paid within sixty (60) days of the signed Order. Administrative Fee was paid on May 17, 2023.

Application for a Variance was submitted on or about June 14, 2023. A Notice of Denial was issued on or about July 18, 2023 by the Planning Director. On or about August 6, 2023 an Administrative Appeal was filed and on September 21, 2023 Appeal was heard by Village Council.

Village Council deferred the determination of the Appeal and is requesting Code Compliance Hearing Officer to toll the time period for compliance until March 14, 2024 and respondents be allowed an additional 25 days from that date to make any remedial work as needed. Resolution from Village Council has not yet been executed at this time.

The Hearing Officer reviewed the motion to toll and does not object. Ms. Pereira will work on the order with Mr. Arango and complete it next week.

At 1:13:30 into the meeting, Case No. CEBDG20230000194 Florida Power Investments began.

Code Enforcement Officer Gerardo Gonzalez presents on Monday, June 26, 2023, work on pavers was documented on property without a valid permit. The Property red tagged same day. Violation Section 6-61(a) of the Village Code entitled "Work requiring building permit" which provides that permits are required as provided in the Florida Building Code, and for the following work: Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Notice of violation sent/mail return receipt on July 24, 2023, with compliance date August 7, 2023. Corrective actions would be to apply for and obtain ATF permit for pavers, pass inspection to close out case. On September 13, 2023, the case was assigned to a hearing and posted the same day. Notice of hearing was sent via certified same day. As of today, September 27, 2023, no permit has been submitted.

The Hearing Officer asked that the work be completed within 30 days of the signed order. After 30 days he will impose a fine of \$200 per day. An administrative fee of \$125 per day is also imposed.

Public Comment: None  
Meeting Adjourned: 3:29 PM  
Recording Secretary: Anita Muxo