



Islamorada, Village of Islands

Code Compliance Hearing

November 12, 2024 - 2:00 PM

Village Administrative Center & Public Safety Headquarters
Third Floor Conference Room
86800 Overseas Highway
Islamorada, FL 33036

MINUTES

I. CALL TO ORDER / ROLL CALL

In Attendance:

Michael Pawelczyk - Hearing Officer (via Zoom)
Jose Arango - Village Attorney's Office - Weiss Serota (via Zoom)
Andres Garcia - Code Enforcement Officer
Christian Owens - Code Enforcement Officer
Michael Hurley - Property Owner 168 Indian Mound Trail (via Zoom)
Anonymous - (via Zoom)
David Hutchison - Attorney for Victor Gircey
Matthew Hardee - Attorney for Victor Gircey
Victor Gircey - (Owner Ham Seafood Property)
Jennifer DeBoisbriand - Planning Director
Kim Harrington - Planning Coordinator

Call to order: 2:00 pm.

II. NEW HEARINGS

A. CEBDGC20230000250

Islamorada Village of Islands Vs. Michael W Hurley Vs. Becky M Hurley

Michael Pawelczyk, Hearing Officer, read the rules of the proceedings for the Hurley Case and swore in Andres Garcia as a witness.

Andres Garcia, Code Compliance Officer, presented the case summary.

Violation: Section 6-61 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: swimming pool protection fence and aluminum levered fence.

Corrective Measures: Apply for and obtain ATF (After The Fact) permits for the pool fence and louvered fence, pay the required fees and pass the necessary inspections for the permits to close.

On September 6, 2023, Gerardo Gonzalez, former Code Compliance Officer for the Village, while on routine patrol, found and documented two unpermitted fence installations on this property. A stop work order was posted on the property.

On September 6, 2023, an after the fact building permit application (PRBLD202300968) for the interior swimming pool protection fence was submitted. This permit is now in abandoned status.

On December 12, 2023, a second after the fact building permit application (PRBLD202301256) for a white aluminum louvered fence with a double swing gate was submitted. This permit is now in abandoned status.

Approximately in February 2024, I inherited this case from former code compliance officer Gerardo Gonzalez.

On March 5, 2024, I conducted a site visit to the property to get familiar with this case and was able to observe the white aluminum louvered fence with a double swing gate. I was not able to observe the interior swimming pool protection fence.

On May 20, 2024, upon conducting a case review, I observed that the interior swimming pool protection permit application had been abandoned.

On June, 19, 2024, upon conducting a case review, I observed that the white aluminum louvered fence with a double swing gate permit application had been abandoned. A Notice of Violation was prepared and issued via certified mail on June 24, 2024. The updated corrective measure is to renew, pay all fees, and have the inspections completed to close out the permits.

On July 24, 2024, I received a call from one of the property owners (Mr. Michael Hurley) in response to the Notice of Violation. I explained what the code case was about with its corrective action.

On approximately July, 29, 2024, the USPS certified green card came back unsigned, giving me reason to believe that even when I spoke with the owner previously, good service had not been met. Therefore, I prepared an additional Notice of Violation. The additional Notice of Violation was prepared and posted on the property that same day.

On September 5, 2024, a Notice of Warning was prepared, issued via certified mail, and one additional copy was posted on the property that same day. The Notice issued via certified mail came back to our offices as unclaimed on October 1st, 2024.

On October 16, 2024, upon conducting a case review, I observed that the two fence permit applications were still in abandoned status. A Notice of Hearing was prepared and issued via certified mail and a copy of such notice was posted on the property and the Islamorada Village Hall on the 2nd floor. An affidavit of posting was also completed on this same day.

On October 18, 2024, I received a call from one of the property owners (Mr. Michael Hurley) in response to the Notice of Hearing to indicate that he is working with an engineer on the needed documentation for the permits.

Andres then stated that he needed to add that on Friday, October 25, 2024, Mr. Hurley applied for a separate permit, number 202401141.

On Monday, October 28, 2024, Andres was able to conduct an initial review of the permit, and he made the determination that it will not satisfy this case because the scope of work is not for the work cited in this case.

On Tuesday, October 29, 2024, Andres spoke with Michael Hampson of Southernmost Fence, the contractor for the new fence permit, and was told that Mr. Hurley is working with the original contractor who installed the fence that is in violation.

Further, Andres Garcia, Code Compliance Officer, stated that as of today's date the interior pool protection fence is in incomplete status. The first application for the aluminum louvered fence was withdrawn and the second aluminum louvered fence application is in Plan Check Status. He added that the new application he does not believe will satisfy this case because, based on the scope of work, the permit is being applied for a future installation on the right side of the property and based on the pictures that were taken, and his site visits, he has been able to determine that the fences that were cited were on the left side of the property. As of today, Andres stated, that over a year later, the permits that are needed to get this case in compliance have not been applied for yet.

Michael Hurley, property owner at 168 Indian Mound Trail, turned his mic on via Zoom and was sworn in by Michael Pawelczyk, Hearing Officer. Mr. Hurley stated that he would not dispute anything Andres Garcia said. He said he did not realize he needed a permit. He said it was a human health hazard to not have a fence, so he put it up, and that Rincon Fence Company out of Miami handled the fence, and he had assumed if a permit was needed that they would have applied. He added that he's had an awful time getting contractors to get work done. He admitted he's rarely in Florida and did not receive any notices, but he did contact Andres Garcia, Code Compliance Officer, and said he'd been very respectful. Michael Hurley additionally further stated that he now has drawings that arrived just four days ago, and added that he does now dispute that the old permits are not active again because he said that he spoke with Evelyn Fraley in the Village of Islamorada Building Department today and got the old permits re-activated.

Michael Pawelczyk asked if the permit(s) he has now reactivated are for both fences or just for one fence. Mr. Hurley then stated that the only fence that is there is the pool fence and that he did not know what Andres Garcia was talking about. Michael Pawelczyk asked Andres Garcia which fence he was talking about. Andres answered that if Michael Pawelczyk could view the photo on page 37, but following Mr. Hurley's insistence that there is only one fence, and it is the one in the pictures that also is the pool protection fence, the two fence discussion ended. Michael Pawelczyk told Michael Hurley that he has not been fined

anything at this point and that he is not in compliance until the permit is closed and just because he has initiated the permit reactivation, he is not yet in compliance. Michael Pawelczyk gave Michael Hurley sixty days to get into compliance. He explained that Michael Hurley would need to coordinate with Code Compliance. Michael Hurley then asked if during the current status having an open code alert if it will hold up his new permit with Southernmost Fence. Jennifer DeBoisbriand answered that yes, the Village does not approve permits when an open code violation is on the property, but that once the property is in compliance, the new permits can be issued.

Michael Pawelczyk then issued an order stating that the Hurleys should correct the violation on or before sixty days from the date he signs the order. If the respondents do not comply with this order, a fine in the amount of \$125.00 per day will be imposed. Pursuant to the Village Code, Michael Pawelczyk further ordered the respondents pay the Village of Islamorada the sum of \$125.00 within that sixty-day period to cover the cost of prosecution. The respondent is further ordered to contact the Village of Islamorada Code Compliance Division to arrange for reinspection of the property to verify compliance with this order.

III. HEARINGS ON CASES FROM PREVIOUS AGENDA

None

IV. HEARINGS ON AFFIDAVITS OF NON-COMPLIANCE

None

V. HEARINGS ON AFFIDAVITS OF COMPLIANCE

None

VI. REQUESTS FOR FURTHER ACTION

MOTION TO EXTEND COMPLIANCE DATE

A. CEBDGC20220000250

Islamorada Village of Islands v. Victor Gircey's
Motion To Extend Compliance Deadline

Michael Pawelczyk, Hearing Officer, swore in the witnesses in the Gircey Case. Jennifer DeBoisbriand stated that a few items at the Gircey property still need to be removed, but the Village feels that Mr. Gircey has taken appropriate steps in working to become compliant, and she has no problem giving them extra time at this point. Michael Pawelczyk, Hearing Officer, said that he appreciates the landowner coming to the hearing instead of only the tenant.

Matthew Hardee, Attorney for Victor Gircey, said that 30-927 was the walk-in freezer violation and that he did not see any other requirements on that official order. He also stated that he did see other Code Compliance items that were requested to be removed, but since they weren't on the order he does not believe those items need to be removed today.

Jennifer DeBoisbriand, Planning Director, said that the tenant, Mr. Martinez, was

to comply with the wishes of the Village of Islamorada, and had agreed to remove the rest of the items, but it is true, the property was only cited for 30-927. Michael Pawelczyk, Hearing Officer, stated that the extension isn't needed, as it is moot due to the fact that the other items requested to be removed were not on the order, but he added that Victor Gircey is well aware of the additional items that need to be removed, and that Code Enforcement will follow up on them. Jennifer agreed with Michael Pawelczyk that the Gircey property is now in compliance with section 30-927. Michael Pawelczyk asked the Village Staff to issue an Affidavit of Compliance, or he said if necessary, he can prepare an Order Finding them in Compliance with the prior Order.

VII. AFFIDAVITS OF DEFAULT

None

VIII. ADJOURNMENT

Michael Pawelczyk asked if there was anything else for this Code Compliance Hearing and Jennifer DeBoisbriand, Planning Director, said she had nothing further to present, but she wanted to confirm that he received the message and that he and Jose Arango were good with the date change to December 17. Both Jose Arango, Village Attorney, and Michael Pawelczyk stated that the December 17 date is fine for them. Michael Pawelczyk adjourned the meeting at 2:35 PM.